

*Selected Acts of the 2013
Virginia General Assembly*



*Compiled by
The Virginia Department of State Police*

This volume of Selected Acts contains legislation passed by the 2013 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: <http://www.vsp.state.va.us/FormsPublications.shtm>.

EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. *Italicized* words indicate new language.
2. ~~Lined through~~ words indicate language that has been removed.
3. The table of contents is divided into four categories: Traffic, Criminal, Firearms and Miscellaneous. The bills in those categories are presented in either **full text** or **summary** form. Summarized bills are less relevant, yet still important legislation, and are found at the back of each section. Although summarized bills are not discussed in the recorded Selected Acts presentation, they should be reviewed.
4. Emergency Acts - are Acts with an emergency clause and were effective the moment they were signed by the Governor. Generally, the emergency clause appears as the last sentence of the Act.
5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2013. Note that different portions of a bill may carry different effective dates.
6. A brief overview outlining changes, provided by the Division of Legislative Services, appears at the beginning of each full text bill. This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill. Also, note that the Table of Contents contains a bill description which is not necessarily the same as the short title of the bill.
7. Questions regarding Selected Acts may be directed to the Office of Legal Affairs at (804) 674-6722.
8. Additional information on legislation may be found at: <http://legis.state.va.us/> and the Virginia State Police website at www.vsp.state.va.us.

TABLE OF CONTENTS

TRAFFIC – FULL TEXT

CODE SECTION	BILL	DESCRIPTION	PAGE
§§ 46.2-868 and 46.2-1078.1.	HB1907 and SB1222	Handheld personal communications devices; mandatory minimum fine when convicted of reckless driving.	1
§§ 46.2-665, 46.2-666, and 46.2-670.	SB887	Farm use vehicles; increases distance vehicles used for may travel.	3
§ 46.2-1043.1.	HB1886	Vehicle tire weight limitations; prohibits over-the-road operation of certain vehicles.	5
§§ 46.2-1104, 46.2-1129.1, 46.2-1139, and 46.2-1148	HB1985	Vehicle weight limits and overweight permits; technical changes.	6
§§ 15.2-919, 15.2-1720, 46.2-100, 46.2-328, 46.2-337, 46.2-600, 46.2-613, 46.2-629, 46.2-662, 46.2-694, 46.2-705, 46.2-711, 46.2-714, 46.2-715, 46.2-720, 46.2-721, 46.2-904, 46.2-905, 46.2-907, 46.2-908.1, 46.2-908.3, 46.2-914, 46.2-915, 46.2-915.2, 46.2-1047, 58.1-602, 58.1-2403, 58.1-3503, 58.1-3504, and 58.1-3523.	SB1038	Non-conventional vehicles; titling and registration of mopeds.	10
§§ 46.2-100, 46.2-804, 46.2-805, 46.2-807, 46.2-821, 46.2-822, 46.2-826, 46.2-830, 46.2-831, 46.2-832, 46.2-833, 46.2-834, 46.2-835, 46.2-836, and 46.2-846.	HB2106 and SB1200	Traffic regulation; conforms Title 46.2 to changes to Manual on Uniform Traffic Control Devices.	42
§§ 46.2-348, 46.2-828.2, 46.2-2900 through 46.2-2910.	HB2243 and SB1284	Escort vehicle drivers; certification and regulation in State.	55

TRAFFIC – FULL TEXT cont'd

§§ 19.2-389, 46.2-311, 46.2-324.1, 46.2-341.4, 46.2-341.7, 46.2-341.8, 46.2-341.9, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.15, 46.2-341.16, 46.2-341.20, 46.2-348, 46.2-1076, 46.2-2001.1, 46.2-2001.3, 46.2-2005, 46.2-2011.9, 46.2-2011.11, 46.2-2011.23, 46.2-2011.24, 46.2-2099.19, 46.2-2108.4, 46.2-2122, 46.2-2132, 46.2-2133, 46.2-2176 and 46.2-341.14:1 through 46.2-341.14:10, 46.2-341.20:4, and 46.2-341.20:5.	HB2077 and SB1219	Motor carrier and commercial drivers; amends several licensing laws.	59
§ 46.2-646.	HB1485	DMV registration; expiration and renewal.	96
§ 46.2-334.01.	SB1165	Driver's licenses, provisional; person under age 18 certain restrictions.	97
§ 46.2-334.01.	HB2033	Provisional driver's license; restriction exceptions.	100
§§ 18.2-270, 18.2-271, and 46.2-391.	HB1559 and SB1272	DUI; any person convicted of subsequent offense is guilty of Class 6 felony, etc.	102
§ 4.1-304.	HB1720	Alcoholic beverages; person not requiring evidence of legal age guilty of Class 3 misdemeanor, etc.	107
§ 33.1-56.3.	HB2052 and SB1204	HOT lanes; allows state or local law-enforcement vehicles, etc., to enter.	108
§ 33.1-56.1.	HB1526	HOT lanes; emergency vehicles and law-enforcement vehicles cannot use when commuting to work place.	111

TRAFFIC – SUMMARY ONLY

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 46.2-924.	SB959	Pedestrians, etc; local government may adopt ordinances requiring to stop at marked crosswalks.	112
§ 46.2-325.	HB1701	Driver's license applicants; person who fails DMV exam 3 times must take VA Driver's Manual course.	112
§ 46.2-1190.2.	HB1476	Motorcycle rider safety training centers; requires motorcycles supplied to meet certain criteria.	112
§ 46.2-602.3.	HB1944	Electric vehicles, converted; fees for inspection.	112
§§ 46.2-1516, 46.2-1531, 46.2-1916, 46.2-1931, 46.2-1992.14, 46.2-1992.24, 46.2-1993.14, and 46.2-1993.24.	HB1539	Motor vehicles; certain vehicle dealers not required to display license at wholesale auction.	112
§ 46.2-878.	HB2029	Speed limits; town located entirely within confines of military base may reduce to less than 25 mph.	112
§ 46.2-916.2.	HB1514	Golf carts and utility vehicles; adds Town of Wachapreague to list that may authorize.	112
§ 46.2-1233.1.	HB2202	Vehicle towing charges; increases maximum hookup and initial towing fee.	112

CRIMINAL – FULL TEXT

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 19.2-188.1.	HB1376	Controlled substances; law-enforcement officer's testimony regarding field-test identification.	113
§ 18.2-174.	HB1358 and SB1128	Law-enforcement officer; impersonating local, etc., law-enforcement officer is Class 1 misdemeanor.	114
§§ 15.2-1612, 18.2-174, and 18.2-174.1.	HB1955	Impersonating a law-enforcement officer or other public safety personnel; impersonating, penalty.	115
§§ 16.1-106 and 16.1-298.	HB1643	Protective orders; exempt from stay pending appeal.	116
§§ 18.2-248.1:1 and 54.1-3446.	HB1941	Cannabinoids, research chemicals, synthetic; penalties. Emergency.	118
§ 18.2-248.02.	HB1816	Methamphetamine manufactory; penalty for allowing minor under age 15, etc., to be present.	129
§§ 18.2-370 and 18.2-374.3.	HB1745 and SB1031	Children; taking indecent liberties, use of communications system to propose sex offenses.	130
§ 18.2-346.	HB1606 and SB1015	Prostitution; solicitation of a minor, penalty.	133
§ 18.2-46.1.	HB1847 and SB1205	Criminal street gang predicate offenses; penalties.	134
§ 58.1-1017.1.	HB1783 and SB1017	Contraband cigarettes, tax-paid; increases penalty for possession with intent to distribute.	136
§ 58.1-1017.	HB1820	Cigarettes; sale, purchase, possession, etc., for purpose of evading taxes, penalties.	137
§ 58.1-1017.	SB1018	Unstamped cigarettes; sale, purchase, possession, etc., for purpose of evading taxes, penalties.	139
§§ 18.2-246.13, 18.2-246.14, 18.2-246.15, and 19.2-245.01.	SB1019	Counterfeit cigarettes; penalties.	140
§ 18.2-513.	SB1020	RICO; contraband cigarettes, penalties.	142
§ 19.2-386.21.	SB1022	Contraband cigarettes; allows forfeiture if possessed in violation of laws regarding sale.	143
§ 18.2-57.	HB1927	Assault and battery; adds volunteer firefighter or any emergency medical service personnel, penalty.	144
§ 18.2-57.	SB853	Assault and battery; adds magistrates within enhanced penalty provision.	147
§ 18.2-57.	HB1850	Assault and battery; adds employees of local or regional correctional facility.	149
§§ 18.2-60.3 and 18.2-308.1:4.	HB2211	Stalking; Class 6 felony for conviction of second offense within five years of prior conviction.	152
§ 18.2-178.1.	HB1682, SB1258 and SB706	Mentally incapacitated persons; financial exploitation, penalty.	154

CRIMINAL – SUMMARY ONLY

CODE SECTION	BILL	DESCRIPTION	PAGE
§§ 3.2-6540 and 3.2-6570.	HB1562 and SB828	Dangerous and vicious dogs; when owner is charged with a violation, officer shall confine dog, etc.	155
§ 19.2-215.1.	HB1870	Multijurisdiction grand jury; adds offense of receiving money for procuring person.	155
§ 19.2-215.1.	SB938	Multijurisdiction grand jury; additional criminal violations that may investigate.	155
§ 19.2-215.1.	HB2248	Money laundering; adds investigations of violations to multijurisdiction grand juries.	155
§ 33.1-346.	SB1166	Littering & illegal dumping; if convicted, ordered to perform minimum of 10 hrs. community service.	155
§ 54.1-3450.	HB2136	Methasterone and prostanazol; added to list of Schedule III controlled substances.	155
§§ 8.01-225 and 54.1-3408.	HB1672	Naloxone; administration by unlicensed individual in cases of opiate overdose.	155
§ 18.2-248.	HB1806	Methamphetamine; substances used to manufacture.	155
§ 29.1-529.	HB1929	Deer; kill permits for towns.	155
§ 18.2-186.3.	HB1684 and SB1010	Identity theft; victim assistance, restitution, penalties.	155
§ 17.1-805.	HB 1746 and SB1214	Sentencing guidelines; definition of violent felony.	156
§§ 19.2-66 and 19.2-68.	HB2266	Wiretapping; authorization for monitoring by sheriff's office.	156
§ 18.2-60.5.	HB1981	Electronic tracking devices; person who installs, etc., without consent, Class 3 misdemeanor.	156
§ 63.2-1606.1.	SB997 and HB2122	Incapacitated persons; photographs, x-rays, etc., may be taken as part of medical evaluation, etc.	156
§ 63.2-1505.	HB 2193	Child abuse investigations; employees of school divisions.	156
§ 18.2-64.2.	HB2294	Inmates; carnal knowledge, expansion to include defendants on bond, penalty is Class 1 misdemeanor.	156
§ 18.2-345.	SB969	Lewd and lascivious cohabitation; eliminates crime.	156
§ 8.01-47.	SB1376	Certain persons; immunity for those reporting, etc., individual posing credible danger of injury.	157
§§ 18.2-48.1, 18.2-57, 18.2-431.1, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-475, 18.2-476, and 18.2-477.2.	HB2065	Juvenile correctional centers; offenses committed by persons committed to DJJ, etc.	157

CRIMINAL – SUMMARY ONLY cont'd

§§ 18.2-48.1, 18.2-57, 18.2-431.1, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-475, 18.2-476, and 18.2-477.2.	SB1033	Juvenile and adult facilities; punishment for certain offenses committed within facilities, etc.	157
§§ 19.2-72 and 19.2-76.	HB1763	Arrest warrants; jail officer employed in regional jail or jail farm may execute.	157

FIREARMS – FULL TEXT

CODE SECTION	BILL	DESCRIPTION	PAGE
§§ 18.2-308.2:1 and 18.2-308.2:2.	SB1378	Firearms; person guilty of Class 4 felony if sells to person he knows is prohibited from possessing.	158
§§ 16.1-260, 17.1-406, 18.2-57.3, 18.2-287.01, 18.2-308, 18.2-311, 19.2-83.1, 19.2-120.1, 19.2-386.27, 19.2-386.28, and 24.2-643, 18.2-307.1, and 18.2-308.01 through 18.2-308.015.	HB1833	Concealed weapons and concealed handgun permits; reorganizing & recodifying law related to carrying.	164

FIREARMS – SUMMARY ONLY

§ 18.2-308.	SB1335	Concealed handgun permits; confidentiality of permittee information.	193
§ 18.2-308.	HB1679	Concealed handgun permit; exception retired investigator of security division of Lottery Department.	193
§ 18.2-308.2:2.	HB2317 and SB1363	Firearms; residency of armed forces members.	193
§ 59.1-148.3.	HB1506	Service firearms; minimum years of service.	193
§ 18.2-308.	SB703	Concealed handgun permit fees; provides an exemption for certain retired correctional officers.	193

MISCELLANEOUS – FULL TEXT

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 46.2-380.	HB1830 and SB948	State Police, Department of; accident reports may be retained in hard copy or electronic form.	194
§ 65.2-301.1.	HB1347 and SB896	Workers' compensation; weather as risk of public safety officer's employment, injuries incurred.	195
§§ 18.2-308.1 and 63.2-1734.	HB1582	Armed security officers; protection of schools and child day centers.	196
§§ 19.2-123 and 19.2-390.	SB847	Arrestees; judicial officer may require as condition of release on bail fingerprints and photos.	198
§§ 2.2-3706, 2.2-3711, and 15.2-1713.1.	SB1264	VA. FOIA; access to criminal and other records.	203
§ 9.1-902.	HB1862 and SB1032	Sex Offender and Crimes Against Minors Registry Act; add to list of offenses requiring registration.	212
§ 2.2-3101.	SB1119	State & Local Government Conflict of Interests Act; definition of personal interest in transaction.	215

MISCELLANEOUS – SUMMARY ONLY

§ 19.2-13.	HB2058 and SB1048	Conservators of the peace, special; State-owned museums to apply for appointment by circuit court.	218
§§ 53.1-10 and 66-3.	HB1877 and SB943	Corrections and Juvenile Justice, Departments of; powers and duties of Director, etc.	218
§§ 19.2-389 and 32.1-111.5.	HB1383 and SB1288	Criminal history record information; emergency medical services providers.	218
§ 16.1-69.55.	HB1451	Retention of case records; general district court.	218
§ 54.1-3408.	HB1499 and SB773	Emergency medical services personnel; administration of medications.	218
§ 65.2-1306.	HB1733	Workers' compensation; peer review of services rendered by physicians.	218
§§ 54.1-4009, 54.1-4010, and 54.1-4101.	HB1649	Pawnbrokers and precious metals dealers; records required to be maintained, etc.	218
§§ 15.2-1705 and 15.2-1707.	HB2121 and SB1026	Law-enforcement officers; grounds for decertification, DCJS authorized to waive requirements.	218
§ 15.2-1724.	HB1826	Law-enforcement officers; exceptions to territorial limits.	219
§ 15.2-1726.	SB839	Local boundaries for law-enforcement; organizing for purpose of 911 dispatch and response.	219
§ 32.1-288.	SB931	Dead bodies; notification for disposition to next of kin to claim body within 30 days of notice.	219

MISCELLANEOUS – SUMMARY ONLY cont'd

§§ 59.1-116.1, 59.1-117, 59.1-121, 59.1-123, 59.1-136.1, 59.1-136.3, 59.1-136.5, and 59.1-136.6.	HB1481	Scrap metal purchasers; purchase of secondhand articles, reports, penalty.	219
§ 2.2-3104.	SB1215	State government officers and employees; representation of clients, prohibited conduct.	219
§§ 9.1-184 and 23-9.2:10.	HB2344	School safety; threat assessment teams, model critical incident response training program, etc.	219
§§ 2.2-309, 2.2-310, 2.2-311, 2.2-313, 2.2-1202.1, 2.2-3705.3, and 2.2-3802.	HB 2114 and SB1176	State Inspector General; additional powers and duties, report.	219
§§ 54.1-2523 and 54.1-2523.1.	HB1704	Prescription Monitoring Program; disclosure of information to certain agents.	219
N/A	HB2012 and SB1331	Drones; moratorium on use of unmanned aircraft systems by state or local government department, etc.	220
§ 16.1-301.	HB2347	Juvenile law-enforcement records; principal may provide information to threat assessment team, etc.	220
§ 18.2-213.2.	SB811	False lien or encumbrance; filing against real or personal property of another, penalty.	220

TRAFFIC – FULL TEXT

Driving while texting; primary offense; increased penalties. Provides that driving while texting is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. The current penalties are \$20 for a first offense and \$50 for a second or subsequent offense. The bill also increases the punishment of any person convicted of reckless driving to include a \$250 mandatory minimum fine if the person was texting at the time of the reckless driving offense. The bill also changes the offense from a secondary offense (one that can only be charged when the offender is stopped for another, separate offense) to a primary offense. The bill also provides that the Department of Criminal Justice Services shall make training on such offenses available to state and local law-enforcement agencies. The bill incorporates [HB 1357](#), [HB 1360](#), [HB 1495](#), [HB 1540](#), [HB 1848](#), and [HB 1883](#) and is identical to [SB 1222](#).

CHAPTER 752

An Act to amend and reenact §§ 46.2-868 and 46.2-1078.1 of the Code of Virginia, relating to unlawful use of handheld personal communications devices while driving; penalty.

[H 1907]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-868](#) and [46.2-1078.1](#) of the Code of Virginia are amended and reenacted as follows:

§ [46.2-868](#). Reckless driving; penalties.

A. Every person convicted of reckless driving under the provisions of this article ~~shall be~~ is guilty of a Class 1 misdemeanor.

B. Every person convicted of reckless driving under the provisions of this article who, when he committed the offense, (i) was driving without a valid operator's license due to a suspension or revocation for a moving violation and, (ii) as the sole and proximate result of his reckless driving, caused the death of another, is guilty of a Class 6 felony.

C. The punishment for every person convicted of reckless driving under the provisions of this article who, when he committed the offense, was in violation of § [46.2-1078.1](#) shall include a mandatory minimum fine of \$250.

§ [46.2-1078.1](#). Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It ~~shall be~~ is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or
2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored ~~in~~ within the device nor to any caller identification information.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle *while he is engaged in the performance of his official duties*;

2. An operator who is lawfully parked or stopped;
3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or
4. Any person using a handheld personal communications device to report an emergency.

~~C. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

~~D. A violation of any provision of this section shall constitute~~ is a traffic infraction punishable, for a first offense, by a fine of ~~\$20~~ \$125 and, for a second or subsequent offense, by a fine of ~~\$50~~ \$250.

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer ~~while engaged in the performance of official duties~~;
 2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
 4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;
 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
 6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and
 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § [46.2-1029.2](#).
2. That the Department of Criminal Justice Services shall make training on the implementation and enforcement of this act available to state and local law-enforcement agencies.

Farm use vehicles. Increases the distance that farm use vehicles used for agricultural and horticultural purposes and the seasonal transportation of produce and livestock may travel on the highways from 30 to 50 miles. This bill also makes technical amendments.

CHAPTER 776

An Act to amend and reenact §§ [46.2-665](#), [46.2-666](#), and [46.2-670](#) of the Code of Virginia, relating to farm use vehicles.

[S 887]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-665](#), [46.2-666](#), and [46.2-670](#) of the Code of Virginia are amended and reenacted as follows:

§ [46.2-665](#). Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates and decals, or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup ~~trucks~~, ~~(ii)~~ or panel trucks, ~~(iii)~~ (ii) sport utility vehicles, ~~(iv)~~ (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and ~~(v)~~ (iv) trailers and semitrailers that are not operated on or over any public highway in ~~this~~ the Commonwealth for any purpose other than:

1. Crossing a highway;
2. Operating along a highway for a distance of no more than ~~thirty~~ 50 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;
3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;
4. Taking another vehicle exempt from registration under any provision of §§ [46.2-664](#) through [46.2-668](#) or § [46.2-672](#), or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;
5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm; or
6. Operating along a highway for a distance of no more than ~~thirty~~ 50 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning.

§ [46.2-666](#). Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, and decals, or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than ~~thirty~~ 50 miles ~~or including the distance to the nearest storage house, packing plant, or market, but in no event more than fifty miles.~~ The provisions of this section shall only apply to (i) pickup ~~trucks~~, ~~(ii)~~ or panel

trucks, ~~(iii)~~ (ii) sport utility vehicles, ~~(iv)~~ (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and ~~(v)~~ (iv) trailers and semitrailers.

§ [46.2-670](#). Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates and decals, or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than twenty miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup trucks, ~~(ii)~~ or panel trucks, ~~(iii)~~ (ii) sport utility vehicles, ~~(iv)~~ (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and ~~(v)~~ (iv) trailers and semitrailers.

Vehicle tire weight limitations. Prohibits operation, for a commercial purpose, of certain vehicles whose tire weight exceeds 125 percent of the tire weight limit guidelines.

CHAPTER 430

An Act to amend the Code of Virginia by adding a section numbered [46.2-1043.1](#), relating to operation of vehicle with tire weights in excess of certain tire load rating standards.

[H 1886]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [46.2-1043.1](#) as follows:

§ [46.2-1043.1](#). *Tire loading.*

No person shall operate for a commercial purpose a truck, trailer, or semitrailer with tires on any highway in the Commonwealth if any officer authorized to enforce overweight vehicle laws determines upon weighing such truck, trailer, or semitrailer that any such tire carries a weight greater than 125 percent of that marked on the sidewall of the tire.

The provisions of this section shall not apply to:

- 1. Any vehicle that is being operated under the terms of a permit issued under Article 18 (§ [46.2-1139](#) et seq.) and is being operated at a reduced speed as required by the permit to compensate for the tire loading in excess of the manufacturer's rated capacity for the tire;*
- 2. Any vehicle having a gross vehicle weight rating of 26,001 pounds or more;*
- 3. Any manufactured home; or*
- 4. Any vehicle not required to be registered.*

Vehicle tire weight limitations. Prohibits operation, for a commercial purpose, of certain vehicles whose tire weight exceeds 125 percent of the tire weight limit guidelines.

CHAPTER 118

An Act to amend and reenact §§ [46.2-1104](#), [46.2-1129.1](#), [46.2-1139](#), and [46.2-1148](#) of the Code of Virginia, relating to vehicle weight limits and overweight permits.

[H 1985]

Approved March 6, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-1104](#), [46.2-1129.1](#), [46.2-1139](#), and [46.2-1148](#) of the Code of Virginia are amended and reenacted as follows:

§ [46.2-1104](#). Reduction of limits by Commissioner of Highways and local authorities; penalties.

The Commissioner of Highways, acting through employees of the Department of Transportation, may prescribe the weight, width, height, length, or speed of any vehicle or combination of vehicles passing over any highway or section of highway or bridge constituting a part of the interstate, primary, or secondary system of highways. Any limitations thus prescribed may be less than those prescribed in this title whenever an engineering study discloses that it would promote the safety of travel or is necessary for the protection of any such highway.

If the reduction of limits as provided in this section is to be effective for more than 90 days, a written record of this reduction shall be kept on file at the central office of the Department of Transportation. In instances where the limits, including speed limits, are to be temporarily reduced, the representative of the Department of Transportation in the county wherein such highway is located shall immediately notify the Chief Engineer for the Department of Transportation of such reduction. The Chief Engineer shall either affirm or rescind the action of reducing such limits within five days from the date the limits have been posted as hereinafter provided. A list of all highways on which there has been a reduction of limits as herein provided shall be kept on file at the central office of the Department of Transportation. Anyone aggrieved by such reduction of limits may appeal directly to the Commissioner of Highways for redress, and if he affirms the action of reducing such limits, the Commonwealth Transportation Board shall afford any such aggrieved person the opportunity of being heard at its next regular meeting.

The local authorities of counties, cities, and towns, where the highways are under their jurisdiction, may adopt regulations or pass ordinances decreasing the weight limits prescribed in this title for a total period of no more than 90 days in any calendar year, when an engineering study discloses that operation over such highways or streets by reason of deterioration, rain, snow, or other climatic conditions will seriously damage such highways unless such weights are reduced.

In all instances where the limits for weight, size, or speed have been reduced by the Commissioner of Highways or the weights have been reduced by local authorities pursuant to this section, signs stating the weight, height, width, length, or speed permitted on such highway shall be erected at each end of the section of highway affected and no such reduced limits shall be effective until such signs have been posted.

~~It~~ *Notwithstanding any other provision of law to the contrary, it shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the Commissioner of Highways or local authorities pursuant to this section.*

Any violation of any provision of this section shall constitute a Class 2 misdemeanor. Furthermore, the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

§ [46.2-1129.1](#). Further extension of weight limits for certain vehicles utilizing an auxiliary power unit or other idle reduction technology.

Any motor vehicle that utilizes an auxiliary power unit or other idle reduction technology in order to promote reduction of fuel use and emissions due to engine idling shall be allowed up to an additional ~~400~~ 550 pounds total in gross, single axle, tandem axle, or bridge formula weight limits.

To be eligible for this exception, the operator of the vehicle must be able to prove (i) by written certification, the weight of the auxiliary power unit or other idle reduction technology unit and (ii) by demonstration or written certification, that such idle reduction technology is fully functional at all times.

Certification of the weight of the auxiliary power unit must be available to law-enforcement officials if the vehicle is found in violation of applicable weight laws. The additional weight allowed cannot exceed ~~400~~ 550 pounds or the weight certified, whichever is less.

For purposes of this section, "auxiliary power unit" means a mechanical or electrical device affixed to a motor vehicle that is designed to be used to generate an alternative source of power for any of the motor vehicle's systems other than the primary propulsion engine, and "idle reduction technology" refers to a technology that allows engine operators to refrain from long-duration idling of the main propulsion engine by using an alternative technology.

§ [46.2-1139](#). Permits for excessive size and weight generally; penalty.

A. The Commissioner and, unless otherwise indicated in this article, local authorities of cities and towns, in their respective jurisdictions, may, upon written application and good cause being shown, and pursuant to the requirements of subsection A1, issue a permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title. Any such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit.

A1. Any city or town, as authorized under subsection A, or any county that has withdrawn its roads from the secondary system of state highways that opts to issue permits under this article shall enter into a memorandum of understanding with the Commissioner that ~~at a minimum~~:

1. Allows the Commissioner to issue permits on behalf of that locality; and
2. Provides that the locality shall satisfy the following requirements prior to issuing such permits:
 - a. The locality shall have applications for each permit type available online.
 - b. The locality shall have designated telephone and fax lines to address permit requests and inquiries.
 - c. The locality shall have at least one staff member whose primary function is to issue permits.
 - d. The locality shall have one or more engineers on staff or contracted to perform bridge inspections and provide analysis for overweight vehicles.
 - e. The locality shall maintain maps indicating up-to-date vertical and horizontal clearance locations and limitations.
 - f. The locality shall provide to the Department an emergency contact phone number and assign a staff person who is authorized to issue the permit or authorized to make a decision regarding the permit request at all times (24 hours a day, seven days a week).

g. The locality shall process a "standard permit" for a "standard vehicle" by the next business day after receiving the completed permit application. Each locality shall define "standard vehicle" and "standard permit" and provide the Department with those definitions. All other requests for permits shall be processed within 10 business days.

h. The locality shall retain for at least 36 months all permit data it collects.

i. The locality shall maintain an updated list of all maintenance and construction projects within that locality. The list shall provide starting and ending locations and dates for each project, and shall be updated as those dates change.

j. The locality shall maintain a list of restricted streets. This list shall indicate all times of travel restrictions, oversize restrictions, and weight restrictions for streets within the locality's jurisdiction.

If the locality satisfies the requirements in the memorandum of understanding, the locality may issue permits under this article.

B. Except for permits issued under § [46.2-1141](#) for overweight vehicles transporting containerized freight and permits issued for overweight vehicles transporting irreducible loads, no overweight permit issued by the Commissioner or any local authority under any provision of this article shall be valid for the operation of any vehicle on an interstate highway if the vehicle has:

1. A single axle weight in excess of 20,000 pounds; or
2. A tandem axle weight in excess of 34,000 pounds; or
3. A gross weight, based on axle spacing, greater than that permitted in § [46.2-1127](#); or
4. A gross weight, regardless of axle spacing, in excess of 80,000 pounds.

C. The Commissioner may issue permits to operate or tow one or more travel trailers as defined in § [46.2-1900](#) or motor homes when any of such vehicles exceed the maximum width specified by law, provided the movement of the vehicle is prior to its retail sale and it complies with the provisions of § [46.2-1105](#). A copy of each such permit shall be carried in the vehicle for which it is issued.

D. 1. Every permit issued under this article for the operation of oversize or overweight vehicles shall be carried in the vehicle to which it refers and may be inspected by any officer or size and weight compliance agent. Violation of any term of any permit issued under this article shall constitute a Class 1 misdemeanor. Violation of terms and conditions of any permit issued under this article shall not invalidate the weight allowed on such permit unless (i) the permit vehicle is operating off the route listed on the permit, (ii) the vehicle has fewer axles than required by the permit, (iii) the vehicle has less axle spacing than required by the permit when measured longitudinally from the center of the axle to center axle with any fraction of a foot rounded to the next highest foot, or (iv) the vehicle is transporting multiple items not allowed by the permit.

2. Any multi-trip permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title may be transferred to another vehicle no more than two times in a 12-month period, provided that the vehicle to which the permit is transferred is subject to all the limitations set forth in the permit as originally issued. The applicant shall pay the Department an administrative fee of \$10 for each transfer.

E. Any permit issued by the Commissioner or local authorities pursuant to state law may be restricted so as to prevent travel on any federal-aid highway if the continuation of travel on such highway would result in a loss of

federal-aid funds. Before any such permit is restricted by the Commissioner, or local authority, written notice shall be given to the permittee.

F. When application is made for permits issued by the Commissioner as well as local authorities, any fees imposed therefor by the Commissioner as well as all affected local authorities may be paid by the applicant, at the applicant's option, to the Commissioner, who shall promptly transmit the local portion of the total fee to the appropriate locality or localities.

G. Engineering analysis, performed by the Virginia Department of Transportation or local authority, shall be conducted of a proposed routing before the Commissioner or local authority issues any permit under this section when such analysis is required to promote safety and preserve the capacity and structural integrity of highways and bridges. The Commissioner or local authority shall not issue a permit when the Virginia Department of Transportation or local authority determines that the roadway and bridges to be traversed cannot sustain a vehicle's size and weight.

§ [46.2-1148](#). Overweight permit for hauling Virginia-grown farm produce.

In addition to other permits provided for in this article, the Commissioner, upon written application by the owner or operator of any ~~three-axle vehicle used for~~ hauling farm produce grown in Virginia, shall issue permits for overweight operation of such vehicles as provided in this section. Such permits shall allow the vehicles to have ~~a gross weight of no more than 50,000 pounds,~~ a single axle weight of no more than ~~20,000~~ 24,000 pounds, ~~and a tandem axle weight of no more than 36,000~~ 40,000 pounds, ~~and a tri-axle grouping weight of no more than 50,000 pounds.~~ Additionally, any five-axle combination ~~used for hauling Virginia-grown farm products~~ may have a gross weight of no more than ~~80,000~~ 90,000 pounds ~~and, any four-axle combination hauling Virginia-grown produce, may have a tandem axle weight of 36,000 pounds~~ gross weight of not more than 70,000 pounds, ~~any three-axle combination may have a gross weight of no more than 60,000 pounds, and any two-axle combination may have a gross weight of no more than 40,000 pounds.~~

Except as otherwise provided in this section, no such permit shall designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.

No permit issued under this section shall authorize any vehicle whose axle weights or axle spacing would not be permissible under §§ [46.2-1122](#) through [46.2-1127](#) to cross any bridge constituting a part of any public road.

The fee for a permit issued under this section shall be \$45, to be allocated as follows: (i) \$40 to the Highway Maintenance and Operating Fund, with a portion equal to the percentage of the Commonwealth's total lane miles represented by the lane miles eligible for maintenance payments pursuant to §§ [33.1-23.5:1](#) and [33.1-41.1](#) being redistributed on the basis of lane miles to the applicable localities pursuant to §§ [33.1-23.5:1](#) and [33.1-41.1](#), to be used to assist in funding needed highway pavement and bridge maintenance and rehabilitation and (ii) a \$5 administrative fee to the Department. Such permits shall be valid only in Accomack and Northampton Counties.

Non-conventional vehicles. Provides for the titling and registration of mopeds and distinctive license plates for low-speed vehicles. The bill also requires a moped operator to carry government-issued photo identification and wear a face shield, safety glasses, or goggles if his moped is not equipped with safety glass or a windshield. The bill also makes all-terrain vehicles, off-road motorcycles, and mopeds subject to the motor vehicle sales and use tax, if the owner does not show that they already paid the retail sales and use tax. The bill further classifies mopeds for valuation purposes in personal property taxation and allows localities to exempt mopeds from personal property taxation. The bill also replaces the term "scooter" with "foot-scooter" and makes other largely technical changes based upon recommendations made by DMV after a year-long study of Virginia's laws relating to non-conventional vehicles. The bill incorporates [SB 1067](#).

CHAPTER 783

An Act to amend and reenact §§ [15.2-919](#), [15.2-1720](#), [46.2-100](#), [46.2-328](#), [46.2-337](#), [46.2-600](#), [46.2-613](#), [46.2-629](#), [46.2-662](#), [46.2-694](#), as it is currently effective and as it may become effective, [46.2-705](#), [46.2-711](#), [46.2-714](#), [46.2-715](#), [46.2-720](#), [46.2-721](#), [46.2-904](#), [46.2-905](#), [46.2-907](#), [46.2-908.1](#), [46.2-908.3](#), [46.2-914](#), [46.2-915](#), [46.2-915.2](#), [46.2-1047](#), [58.1-602](#), [58.1-2403](#), [58.1-3503](#), [58.1-3504](#), and [58.1-3523](#) of the Code of Virginia, relating to mopeds, all-terrain vehicles, off-road motorcycles, foot-scooters, and other unconventional vehicles.

[S 1038]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [15.2-919](#), [15.2-1720](#), [46.2-100](#), [46.2-328](#), [46.2-337](#), [46.2-600](#), [46.2-613](#), [46.2-629](#), [46.2-662](#), [46.2-694](#), as it is currently effective and as it may become effective, [46.2-705](#), [46.2-711](#), [46.2-714](#), [46.2-715](#), [46.2-720](#), [46.2-721](#), [46.2-904](#), [46.2-905](#), [46.2-907](#), [46.2-908.1](#), [46.2-908.3](#), [46.2-914](#), [46.2-915](#), [46.2-915.2](#), [46.2-1047](#), [58.1-602](#), [58.1-2403](#), [58.1-3503](#), [58.1-3504](#), and [58.1-3523](#) of the Code of Virginia are amended and reenacted as follows:

§ [15.2-919](#). Regulation of motorcycle, moped, or motorized skateboard or foot-scooter noise.

Any locality may, by ordinance, regulate noise from a motorcycle, moped, or motorized skateboard or ~~scooter~~ *foot-scooter*, as defined in § [46.2-100](#), which is not equipped with a muffler and exhaust system conforming to §§ [46.2-1047](#) and [46.2-1049](#), if such noise may be hazardous to the health and well-being of its citizens.

§ [15.2-1720](#). Localities authorized to license bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices; disposition of unclaimed bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices.

Any locality may, by ordinance, (i) provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the police or sheriff's department, unclaimed, for more than thirty days; (ii) require every resident owner of a bicycle, electric power-assisted bicycle, *electric personal assistive mobility device*, or moped to obtain a license therefor and a license plate, tag, and, ~~in the case of an electric personal assistive mobility device, an~~ or adhesive license decal of such design and material as the ordinance may prescribe, to be substantially attached to the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped; (iii) prescribe the license fee, the license application forms and the license form; and (iv) prescribe penalties for operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on public roads or streets within the locality without an attached license plate, tag, or adhesive decal. The ordinance shall require the license plates, tags, or adhesive decals to be provided by and at the cost of the locality. Any locality may provide that the license plates, tags, or adhesive decals shall be valid for the life of the bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds to which they are attached or for such other period as it may prescribe and may prescribe such fee therefor as it may deem reasonable. When any town license is required as provided for herein, the license shall be in lieu of any license required by any county ordinance. Any bicycle, electric personal assistive mobility device, electric power-

assisted bicycle, or moped found and delivered to the police or sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the locality. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

§ [46.2-100](#). Definitions.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"All-terrain vehicle" means a ~~three-wheeled or four-wheeled~~ motor vehicle *having three or more wheels that is powered by a gasoline or diesel engine motor and generally characterized by large, low pressure tires, a seat designed to be straddled by the operator, and handlebars for steering that is intended for off-road use by an individual rider on various types of unpaved terrain is manufactured for off-highway use.* ~~The term "All-terrain vehicle" does not include four-wheeled vehicles, commonly known as "go-carts," that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any "utility vehicle" as defined in this section or any "farm utility vehicle" as defined in this section riding lawn mower.~~

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. *Department of Veterans Administration Affairs*. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: (i) central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ [46.2-800](#) et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is *powered by a motor and is* designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having ~~a gasoline or diesel engine~~, four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, *or* riding lawn mowers, ~~or all-terrain vehicles~~.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § [46.2-472](#).

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also include city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when

such officials are actually engaged in the enforcement of §§ [46.2-752](#), [46.2-753](#), and [46.2-754](#) and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that ~~has~~ (i) ~~has~~ a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground ~~and~~; (ii) ~~has~~ a gasoline, electric, or hybrid motor that (a) displaces ~~less than~~ 50 cubic centimeters *or less* or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. ~~For~~ *Except as otherwise provided*, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. The term "motorcycle" does not include any "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or ~~scooter~~ foot-scooter," "utility vehicle" or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or ~~scooter~~ foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. The term "motorized skateboard or ~~scooter~~ foot-scooter" includes vehicles with or without handlebars, but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ [46.2-300](#) et seq.); (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle designed and used primarily for the transportation of no more than 10 persons including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a(1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § [46.2-1600](#), a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ [15.2-2200](#) et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § [46.2-1090](#). A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number, that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. The term does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic infraction" means a violation of law punishable as provided in § [46.2-113](#), which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § [46.2-2000](#); (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by ~~an engine of no more than 25 horsepower~~ *a motor*, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include ~~all-terrain vehicles as defined in this section, riding lawn mowers, or any other vehicle whose definition is included in this section.~~

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ [46.2-800](#) et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. The term includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § [46.2-677](#), a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ [46.2-328](#). Department to issue licenses; endorsements, classifications, and restrictions authorizing operation of certain vehicles.

A. The Department shall issue to every person licensed as a driver, a driver's license. Every driver's license shall contain all appropriate endorsements, classifications, and restrictions, where applicable, if the licensee has been licensed:

1. To operate a motorcycle as defined in § [46.2-100](#), or
2. To operate a school bus as defined in § [46.2-100](#), or
3. To operate a commercial motor vehicle pursuant to the provisions of the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.).

B. Every applicant intending to operate one or more of the motor vehicles described in subsection A of this section, when applying for a driver's license, shall state in his application the classification of the vehicle or vehicles that he intends to operate and for which he seeks to be licensed and submit to and pass the examination provided for in § [46.2-325](#) and, if applicable, §§ [46.2-337](#) and [46.2-341.14](#), using the type of vehicle or vehicles for which he seeks to be licensed.

C. Every applicant intending to drive a motorcycle, when applying for a classification to authorize the driving of a motorcycle, shall submit to and pass the examination provided for in § [46.2-337](#). A classification on any license to drive a motorcycle shall indicate that the license is classified for the purpose of authorizing the licensee to drive only motorcycles *and shall indicate as applicable a further restriction to a two-wheeled motorcycle only or a three-wheeled motorcycle only*. However, if the applicant has a valid license at the time of application for a classification to drive a motorcycle, or if the applicant, at the time of such application, applies for a regular driver's license and submits to and passes the examination provided for in § [46.2-325](#), he shall be granted a classification on his license to drive motorcycles *based on the applicable restrictions*, in addition to any other vehicles his driver's license or commercial driver's license may authorize him to operate.

A valid Virginia driver's license issued to a person 19 years of age or older accompanied by documentation verifying his successful completion of a motorcycle rider safety training course offered by a provider licensed under Article 23 (§ [46.2-1188](#) et seq.) of Chapter 10 shall constitute a driver's license with a temporary motorcycle classification for the purposes of driving a motorcycle. The temporary motorcycle classification shall only be valid for 30 days from the date of successful completion of the motorcycle rider safety training course as shown on the documentation evidencing completion of such course. *The temporary motorcycle classification shall indicate whether the license holder is authorized to operate any motorcycle or is restricted to either a two-wheeled motorcycle only or a three-wheeled motorcycle only.*

Any person who holds a valid Virginia driver's license and is a member, the spouse of a member, or a dependent of a member of the United States Armed Services shall be issued a motorcycle classification by mail upon documentation of (i) successful completion of a basic motorcycle rider course approved by the United States Armed Services and (ii) documentation of his assignment outside the Commonwealth.

D. The Department may make any changes in the classifications and endorsements during the validity of the license as may be appropriate.

E. The provisions of this section shall be applicable to persons applying for learner's permits as otherwise provided for in this title.

F. Every person issued a driver's license or commercial driver's license who drives any motor vehicle of the classifications in this section, and whose driver's license does not carry an endorsement or indication that the licensee is licensed as provided in this section shall be guilty of a Class 1 misdemeanor.

§ [46.2-337](#). Examination and road test required for license to operate motorcycle; regulations.

No person shall drive any motorcycle on a highway in the Commonwealth unless he has passed a special examination, including written material and a road test, pertaining to his ability to drive a motorcycle with reasonable competence and with safety to other persons using the highways. The Department ~~shall~~ *may* adopt regulations as may be necessary to provide for the special examination under § [46.2-325](#) of persons desiring to qualify to drive motorcycles in the Commonwealth and for the granting of licenses or permits suitably endorsed for qualified applicants. *The road test for two-wheeled motorcycles and the road test for three-wheeled motorcycles shall be separate and distinct examinations emphasizing the skills and maneuvers necessary to operate each type of motorcycle.*

No person applying for a classification to authorize the driving of a motorcycle who fails the road test portion of the special examination two times shall be eligible for such classification until he successfully completes a motorcycle rider safety training course offered by a provider licensed under Article 23 (§ [46.2-1188](#) et seq.) of Chapter 10.

If the Commissioner is satisfied that a person intending to operate a motorcycle has demonstrated the same proficiency as required by the special examination through successful completion of a motorcycle rider safety training course offered by a provider licensed under Article 23 (§ [46.2-1188](#) et seq.) of Chapter 10, he may waive the written material or road test portion or both portions of the special examination.

§ [46.2-600](#). Owner to secure registration and certificate of title or certificate of ownership.

Except as otherwise provided, for the purposes of this chapter, a moped shall be deemed a motor vehicle.

Except as otherwise provided in this chapter every person who owns a motor vehicle, trailer or semitrailer, or his authorized attorney-in-fact, shall, before it is operated on any highway in the Commonwealth, register with the Department and obtain from the Department the registration card and certificate of title for the vehicle. Individuals applying for registration shall provide the Department with the residence address of the owner of the

vehicle being registered. A business applying for registration shall provide the Department with the street address of the owner or lessee of the vehicle being registered.

At the option of the applicant for registration, the address shown on the title and registration card may be either a post office box or the business or residence address of the applicant.

Unless he has previously applied for registration and a certificate of title or he is exempted under §§ [46.2-619](#), [46.2-631](#), and [46.2-1206](#), every person residing in the Commonwealth who owns a motor vehicle, trailer, or semitrailer, or his duly authorized attorney-in-fact, shall, within 30 days of the purchase or transfer, apply to the Department for a certificate of ownership.

Nothing in this chapter shall be construed to require titling or registration in the Commonwealth of any farm tractor or special construction and forestry equipment, as defined in § [46.2-100](#).

Notwithstanding the foregoing provisions of this section, provided such vehicle is registered and titled elsewhere in the United States, nothing in this chapter shall be construed to require titling or registration in the Commonwealth of any vehicle located in the Commonwealth if that vehicle is registered to a non-Virginia resident active duty military service member, activated reserve or national guard member, or mobilized reserve or national guard member living in Virginia.

§ [46.2-613](#). Offenses relating to registration, licensing, and certificates of title; penalty.

No person shall:

1. Operate or permit the operation of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him to be operated on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ [46.2-655](#) et seq.) and Article 6 (§ [46.2-662](#) et seq.) of this chapter. *The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.*

2. Display, cause or permit to be displayed, any registration card, certificate of title, or license plate or decal which he knows is fictitious or which he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or lend or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer or for a certificate of title or for any renewal or duplicate certificate, or knowingly to make a false statement of a material fact or to conceal a material fact or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

§ [46.2-629](#). Odometer reading to be reported on certificate of title, application, or power of attorney.

A. Every owner or transferor of any motor vehicle, including a dealer, shall, at the time of transfer of ownership of any motor vehicle by him, record on the certificate of title, if one is currently issued on the vehicle in the

Commonwealth, and on any application for certificate of title the reading on the odometer or similar device plus any known additional distance traveled not shown by the odometer or similar device of the motor vehicle at the time of transfer. If, however, a transferor gives his power of attorney to a dealer or other person for the purpose of assigning the transferor's interest in a motor vehicle, the transferor shall conspicuously record on the power of attorney the reading on the odometer or similar device at the time of the assignment. The owner or transferor of a motor vehicle may electronically provide, in a form and format prescribed by the Commissioner, the reading on the odometer or similar device at the time of transfer if a paper certificate of title was not issued by the Department in accordance with § [46.2-603.1](#) and electronic provision of odometer readings is permitted under the Federal Odometer Act (49 U.S.C. § 32701 et seq.) or any federal regulations promulgated thereunder.

B. The Department shall not issue to any transferee any new certificate of title to a motor vehicle unless subsection A has been complied with.

C. It shall be unlawful for any person knowingly to record an incorrect odometer or similar device reading plus any known additional distance not shown by the odometer or similar device on any certificate of title or application for a title, or on any power of attorney as described in subsection A.

D. Notwithstanding other provisions of this section, an owner or transferor, including a dealer, of any of the following types of motor vehicles need not disclose the vehicle's odometer reading:

1. Vehicles having gross vehicle weight ratings of more than 16,000 pounds; and
2. Vehicles that were manufactured for a model year at least 10 years earlier than the calendar year in which the sale or transfer occurs and were previously exempt from recording an odometer reading on the certificate of title in another state, provided that the Department shall brand the titles of all such vehicles to indicate this exemption.

E. Violation of this section shall constitute a Class 1 misdemeanor.

F. The provisions of subsections A and B shall not apply to transfers under § [46.2-633](#).

G. This section shall not apply to transfers or application for certificates of title of all-terrain vehicles, *mopeds*, or off-road motorcycles as defined in § [46.2-100](#).

§ [46.2-662](#). Temporary exemption for new resident operating vehicle registered in another state or country.

A resident owner of any passenger car, pickup or panel truck, *moped*, or motorcycle, other than those provided for in § [46.2-652](#), which has been duly registered for the current calendar year in another state or country and which at all times when operated in the Commonwealth displays the license plate or plates issued for the vehicle in the other state or country, may operate or permit the operation of the passenger car, pickup or panel truck, *moped*, or motorcycle within or partly within the Commonwealth for the first thirty days of his residency in the Commonwealth without registering the passenger car, pickup or panel truck, *moped*, or motorcycle or paying any fees to the Commonwealth.

§ [46.2-694](#). (Contingent expiration date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Thirty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.
3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000 pounds.
4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000 pounds.
5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.
6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds.
7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.
8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § [46.2-1191](#).

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § [32.1-111.3](#); (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § [46.2-646](#) shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § [46.2-697](#) for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ [46.2-694](#). (Contingent effective date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Twenty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Twenty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000 pounds.

5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the

Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § [46.2-1191](#).

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § [32.1-111.3](#); (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § [46.2-646](#) shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § [46.2-697](#) for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ [46.2-705](#). Definitions.

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them in this section:

"Motor vehicle" means a vehicle capable of self-propulsion which is either (i) required to be titled and licensed and for which a license fee is required to be paid by its owner, or (ii) owned by or assigned to a motor vehicle manufacturer, distributor, or dealer licensed in the Commonwealth. *For the purposes of this article, "motor vehicle" does not include "moped" as defined in § [46.2-100](#).*

"Insured motor vehicle" means a motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, both in the amounts specified in § [46.2-472](#), issued by an insurance carrier authorized to do business in the Commonwealth, or as to which a bond has been given or cash or securities delivered in lieu of the insurance; or as to which the owner has qualified as a self-insurer in accordance with the provisions of § [46.2-368](#).

"Uninsured motor vehicle" means a motor vehicle as to which there is no such bodily injury liability insurance and property damage liability insurance, or no such bond has been given or cash or securities delivered in lieu thereof, or the owner of which has not so qualified as a self-insurer.

§ [46.2-711](#). Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered *moped*, motorcycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips;
2. Taxicabs;
3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;
4. Property-carrying motor vehicles to applicants who operate as private carriers only;
5. Applicants who operate motor vehicles as carriers for rent or hire;
6. Vehicles operated by nonemergency medical transportation carriers as defined in § [46.2-2000](#); and
7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § [58.1-1735](#).

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

~~E-F.~~ Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ [46.2-2100](#) et seq.) of this title.

§ [46.2-714](#). Permanent license plates.

Notwithstanding the provisions of §§ [46.2-711](#) and [46.2-712](#) the Department may, in its discretion, issue a type of license plate suitable for permanent use on motor vehicles, trailers, semitrailers, and motorcycles, together with decals, unless decals are not required under § [46.2-712](#), to be attached to the license plates to indicate the registration period for which such vehicles have been properly licensed. The design of the license plates and decals, when required, shall be determined by the Commissioner.

Every permanent license plate and decal, when required, shall be returned to the Department whenever the owner of a vehicle disposes of it by sale or otherwise and when not actually in use on a motor vehicle, except dealer's plates temporarily not in use. The person in whose name the license plate is registered may apply, during the registration period for which it is issued, for the return thereof if the license plate is intended to be used on a subsequently acquired motor vehicle.

Every permanent license plate and decal, when issued, shall be returned to the Department whenever the owner of a vehicle elects to garage the vehicle and discontinue the use of it on the highway. The person in whose name the license plate is registered may apply, during the registration period for which it is issued, for the return thereof if the vehicle is to be returned to use on the highway.

For the purposes of this section, the term "motor vehicle" does not include a "moped" as defined in § [46.2-100](#).

§ [46.2-715](#). Display of license plates.

License plates assigned to a motor vehicle, other than a *moped*, motorcycle, tractor truck, trailer, or semitrailer, or to persons licensed as motor vehicle dealers or transporters of unladen vehicles, shall be attached to the front and the rear of the vehicle. The license plate assigned to a *moped*, motorcycle, trailer, or semitrailer shall be attached to the rear of the vehicle. The license plate assigned to a tractor truck shall be attached to the front of the vehicle. The license plates issued to licensed motor vehicle dealers and to persons licensed as transporters of unladen vehicles shall consist of one plate for each set issued and shall be attached to the rear of the vehicle to which it is assigned.

§ [46.2-720](#). Use of license plates from another vehicle in certain circumstances.

The owner of a motor vehicle to which license plates have been assigned by the Department may remove the license plates from the motor vehicle and use them on another motor vehicle owned by a person operating a garage or owned by a motor vehicle dealer provided such use does not extend for more than five days and provided the use is limited to the time during which the first motor vehicle is being repaired or while the second motor vehicle is loaned to him for demonstration, as provided by § [46.2-719](#).

For the purposes of this section, the term "motor vehicle" does not include a "moped" as defined in § [46.2-100](#).

§ [46.2-721](#). Application of liability insurance policy to vehicle carrying plates from insured vehicle.

The policy of liability insurance issued to the owner of a motor vehicle and covering the operation thereof shall extend to and be the primary insurance applicable to his operation of a motor vehicle on which he has placed license tags from another motor vehicle as provided in § [46.2-720](#).

For the purposes of this section, the term "motor vehicle" does not include a "moped" as defined in § [46.2-100](#).

§ [46.2-904](#). Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, electric power-assisted bicycles, and electric personal assistive mobility devices on sidewalks and crosswalks and shared-use paths; local ordinances.

The governing body of any county, city, or town may by ordinance prohibit the use of roller skates and skateboards and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or ~~scooters~~ *foot-scooters*, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates and skateboards, and/or bicycle, electric personal assistive mobility devices, motorized skateboards or ~~scooters~~ *foot-scooters*, motor-driven cycles, or electric power-assisted bicycle riding is prohibited.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or ~~scooter~~ *foot-scooter*, motor-driven cycle, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

No person shall ride a bicycle, electric personal assistive mobility device, motorized skateboard or ~~scooter~~ *foot-scooter*, motor-driven cycle, or an electric power-assisted bicycle on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, motorized skateboards or ~~scooters~~ *foot-scooters*, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or ~~scooter~~ *foot-scooter*, motor-driven cycle, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.

A violation of any ordinance adopted pursuant to this section shall be punishable by a civil penalty of not more than \$50.

§ [46.2-905](#). Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, and mopeds on roadways and bicycle paths.

Any person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on a roadway at less than the normal speed of traffic at the time and place under conditions then existing shall ride as close as safely practicable to the right curb or edge of the roadway, except under any of the following circumstances:

1. When overtaking and passing another vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection or into a private road or driveway;
3. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge;
4. When avoiding riding in a lane that must turn or diverge to the right; and
5. When riding upon a one-way road or highway, a person may also ride as near the left-hand curb or edge of such roadway as safely practicable.

For purposes of this section, a "substandard width lane" is a lane too narrow for a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~scooter~~ *foot-scooter*, or moped and another vehicle to pass safely side by side within the lane.

Persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on a highway shall not ride more than two abreast. Persons riding two abreast shall not impede the normal and reasonable movement of traffic, shall move into a single file formation as quickly as is practicable when being overtaken from the rear by a faster moving vehicle, and, on a laned roadway, shall ride in a single lane.

Notwithstanding any other provision of law to the contrary, the Department of Conservation and Recreation shall permit the operation of electric personal assistive mobility devices on any bicycle path or trail designated by the Department for such use.

§ [46.2-907](#). Overtaking and passing vehicles.

A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~scooter~~ *foot-scooter*, or moped may overtake and pass another vehicle on either the left or right side, staying in the same lane as the overtaken vehicle, or changing to a different lane, or riding off the roadway as necessary to pass with safety.

A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~scooter~~ *foot-scooter*, or moped may overtake and pass another vehicle only under conditions that permit the movement to be made with safety.

A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~scooter~~ *foot-scooter*, or moped shall not travel between two lanes of traffic moving in the same direction, except where one lane is a separate turn lane or a mandatory turn lane.

Except as otherwise provided in this section, a person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~scooter~~ *foot-scooter*, or moped shall comply with all rules applicable to the driver of a motor vehicle when overtaking and passing.

§ [46.2-908.1](#). Electric personal assistive mobility devices, electrically powered toy vehicles, and electric power-assisted bicycles.

All electric personal assistive mobility devices, electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location drive an electric personal assistive mobility device, or an electric power-assisted bicycle faster than twenty-five miles per hour. No person less than fourteen years old shall drive any electric personal assistive mobility device, motorized skateboard or ~~scooter~~ *foot-scooter*, or electric power-assisted bicycle unless under the immediate supervision of a person who is at least eighteen years old.

An electric personal assistive mobility device or motorized skateboard or ~~scooter~~ *foot-scooter* may be operated on any highway with a maximum speed limit of twenty-five miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § [46.2-904](#). Nothing in this section shall prohibit the operation of an electric personal assistive mobility device or motorized skateboard or ~~scooter~~ *foot-scooter* in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, electrically powered toy vehicles, bicycles and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

§ [46.2-908.3](#). Low-speed vehicles; operation on highways; license required; registration required; safety and emissions inspections not required.

Low-speed vehicles may be operated on public highways where the maximum speed limit is no greater than 35 miles per hour, but this limitation shall not prohibit the operation of low-speed vehicles across intersections with highways whose maximum speed limits are greater than 35 miles per hour. Operation of low-speed vehicles shall be prohibited on any highway where the Department of Transportation or the local governing body of the locality having control of the highway, as the case may be, has prohibited their operation in the interest of safety and such prohibition is indicated by conspicuously posted signs.

Low-speed vehicles shall be operated on public highways only by persons who hold driver's licenses or learner's permits issued as provided in Chapter 3 (§ [46.2-300](#) et seq.).

Low-speed vehicles shall be titled and registered as provided in Chapter 6 (§ [46.2-600](#) et seq.) ~~of this title~~ and shall be subject to the same requirements as to insurance applicable to other motor vehicles under that chapter.

On or after October 1, 2013, low-speed vehicles titled and registered as provided in Chapter 6 (§ [46.2-600](#) et seq.) shall display license plates as provided in subsection D of § [46.2-711](#).

The operator of any low-speed vehicle being operated on the highways in the Commonwealth shall have in his possession: (i) the registration card issued by the Department or the registration card issued by the state or country in which the low-speed vehicle is registered, and (ii) his driver's license, learner's permit, or temporary driver's permit.

The provisions of Article 22 (§ [46.2-1176](#) et seq.) of Chapter 10 of this title shall not apply to low-speed vehicles.

§ [46.2-914](#). Limitations on operation of mopeds.

A. No moped shall be driven on any highway or public vehicular area faster than 35 miles per hour. Any person who operates a moped faster than 35 miles per hour shall be deemed, for all the purposes of this title, to be operating a motorcycle.

B. No moped shall be driven on any highway by any person under the age of 16, and every person driving a moped shall carry with him ~~some~~ a government-issued form of photo identification that includes his name, address, and date of birth.

C. Operation of mopeds is prohibited on any Interstate Highway System component.

Violation of ~~any provision of this subsection~~ ~~section~~ shall constitute a traffic infraction punishable by a fine of no more than \$50.

§ [46.2-915](#). Stickers required on mopeds.

Any dealer who sells any moped at retail shall affix to any such moped, or verify that there is affixed thereto a permanent decal or sticker which states (i) that the operation of mopeds on highways and public vehicular areas by persons under the age of sixteen is prohibited by Virginia law, (ii) the maximum ~~horsepower~~ engine displacement or wattage of the moped, and (iii) the maximum speed at which the moped may be ridden.

Any dealer who sells any such moped which does not have affixed thereto such a permanent decal or sticker ~~or who sells a motorcycle with such a sticker or decal attached thereto indicating that its motor is rated at no more than two brake horsepower producing only ordinary speeds up to a maximum of 35 miles per hour~~ shall be guilty of a Class 1 misdemeanor.

§ [46.2-915.2](#). Safety equipment for mopeds; effect of violation; penalty.

~~The governing body of any county, city, or town may, by ordinance, provide that every~~ Every person operating a moped, as defined in § [46.2-100](#), on a public street or highway shall wear a face shield, safety glasses, or goggles of a type approved by the Superintendent or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon, if any, shall wear protective helmets of a type approved by the Superintendent. A violation of ~~any such ordinance~~ ~~this section~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership,

or maintenance of a moped or motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action. Any person who knowingly violates ~~any such ordinance~~ *this section* shall be guilty of a traffic infraction and be subject to a fine of not more than fifty dollars.

§ [46.2-1047](#). Muffler cutout, etc., illegal.

It shall be unlawful to sell or offer for sale any (i) muffler without interior baffle plates or other effective muffling device or (ii) gutted muffler, muffler cutout, or straight exhaust. It shall be unlawful for any person to operate on the highways in the Commonwealth a motor vehicle, moped, or motorized skateboard or ~~scooter~~ *foot-scooter* equipped with a gutted muffler, muffler cutout, or straight exhaust.

§ [58.1-602](#). Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § [58.1-605](#) or [58.1-606](#).

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, such term shall not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ [36-70](#) et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § [58.1-2401](#) or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § [58.1-2401](#), taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ [58.1-2400](#) et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid. *"Motor vehicle" does not include any all-terrain vehicle, moped, or off-road motorcycle all as defined in § [46.2-100](#). The taxes under this chapter or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles, mopeds, and off-road motorcycles.*

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; and (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § [58.1-604.6](#).

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

§ [58.1-2403](#). Exemptions.

No tax shall be imposed as provided in § [58.1-2402](#) if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;
2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;
5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;
6. A manufactured home permanently attached to real estate and included in the sale of real estate;
7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;
8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § [46.2-602.2](#). For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § [46.2-602.2](#);

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § [15.2-2703](#), for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;~~or~~

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person; *or*

27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other vehicle subject to the tax imposed under this chapter.

§ [58.1-3503](#). General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § [58.1-3505](#).

2. Farm machinery, except as exempted under § [58.1-3505](#).

3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § [58.1-3504](#), which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § [58.1-2405](#) shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.
5. Trucks and other vehicles, as defined in § [46.2-100](#), except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.
6. Manufactured homes, as defined in § [36-85.3](#), which may be valued on the basis of square footage of living space.
7. Antique motor vehicles, as defined in § [46.2-100](#), which may be used for general transportation purposes as provided in subsection C of § [46.2-730](#).
8. Taxicabs.
9. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.
10. Motorcycles, *mopeds*, all-terrain vehicles, and off-road motorcycles as defined in § [46.2-100](#), campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.
13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
14. Household goods and personal effects, except as exempted under § [58.1-3504](#).
15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.
16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.
17. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 16 of this subsection, which shall be valued by means of a percentage or percentages of original cost.
18. All other tangible personal property.

B. Methods of valuing property may differ among the separate categories, so long as each method used is uniform within each category, is consistent with requirements of this section and may reasonably be expected to determine actual fair market value as determined by the commissioner of revenue or other assessing official; however, assessment ratios shall only be used with the concurrence of the local governing body. A commissioner of revenue shall upon request take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The commissioner of revenue shall make

available to taxpayers on request a reasonable description of his valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer.

§ [58.1-3504](#). Classification of certain household goods and personal effects for taxation; governing body may exempt.

A. Notwithstanding any provision of § [58.1-3503](#), household goods and personal effects are hereby defined as separate items of taxation and classified as follows:

1. Bicycles.
2. Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
3. Pianos, organs, and all other musical instruments; phonographs, record players, and records to be used therewith; and radio and television instruments and equipment.
4. Oil paintings, pictures, statuary, curios, articles of virtu and works of art.
5. Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.
6. Sporting and photographic equipment.
7. Clothing and objects of apparel.
8. Antique motor vehicles as defined in § [46.2-100](#) which may not be used for general transportation purposes.
9. All-terrain vehicles, *mopeds*, and off-road motorcycles as defined in § [46.2-100](#).
10. All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

The classification above set forth shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

The governing body of any county, city or town may, by ordinance duly adopted, exempt from taxation all of the above classes of household goods and personal effects.

B. Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located.

For purposes of this subsection, "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

§ [58.1-3523](#). Definitions.

As used in this chapter:

"Commissioner of the revenue" means the same as that set forth in § [58.1-3100](#). For purposes of this chapter, in a county or city which does not have an elected commissioner of the revenue, "commissioner of the revenue" means the officer who is primarily responsible for assessing motor vehicles for the purposes of tangible personal property taxation.

"Department" means the Department of Motor Vehicles.

"Effective tax rate" means the tax rate imposed by a locality on tangible personal property multiplied by any assessment ratio in effect.

"Leased" means leased by a natural person as lessee and used for nonbusiness purposes.

"Privately owned" means owned by a natural person and used for nonbusiness purposes.

"Qualifying vehicle" means any passenger car, motorcycle, and pickup or panel truck, as those terms are defined in § [46.2-100](#), that is determined by the commissioner of the revenue of the county or city in which the vehicle has situs as provided by § [58.1-3511](#) to be (i) privately owned; (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle; or (iii) held in a private trust for nonbusiness purposes. In determining whether a vehicle is a qualifying vehicle, the commissioner of revenue must rely on the registration of such vehicle with the Department pursuant to Chapter 6 (§ [46.2-600](#) et seq.) of Title 46.2 or, for leased vehicles, the information of the Department pursuant to subsections B and C of § [46.2-623](#), unless the commissioner of the revenue has information that the Department's information is incorrect, or to the extent that the Department's information is incomplete. For purposes of this chapter, all-terrain vehicles and off-road motorcycles titled with the Department of Motor Vehicles *and mopeds* shall not be deemed qualifying vehicles.

"Tangible personal property tax" means the tax levied pursuant to Article 1 (§ [58.1-3500](#) et seq.) of Chapter 35 of Title 58.1.

"Tax year" means the 12-month period beginning in the calendar year for which tangible personal property taxes are imposed.

"Treasurer" means the same as that set forth in § [58.1-3123](#), when used herein with respect to a county or city. When used herein with respect to a town, "treasurer" means the officer who is primarily responsible for the billing and collection of tangible personal property taxes levied upon motor vehicles by such town, and means the treasurer of the county or counties in which such town is located if such functions are performed for the town by the county treasurer or treasurers.

"Used for nonbusiness purposes" means the preponderance of use is for other than business purposes. The preponderance of use for other than business purposes shall be deemed not to be satisfied if: (i) the motor vehicle is expensed on the taxpayer's federal income tax return pursuant to Internal Revenue Code § 179; (ii) more than 50 percent of the basis for depreciation of the motor vehicle is depreciated for federal income tax purposes; or (iii) the allowable expense of total annual mileage in excess of 50 percent is deductible for federal income tax purposes or reimbursed pursuant to an arrangement between an employer and employee.

"Value" means the fair market value determined by the method prescribed in § [58.1-3503](#) and used by the locality in valuing the qualifying vehicle.

Regulation of traffic. Conforms Title 46.2 (Motor Vehicles) of the Code of Virginia to recent changes to the Manual on Uniform Traffic Control Devices. This bill is identical to [SB 1200](#).

CHAPTER 128

An Act to amend and reenact §§ [46.2-100](#), [46.2-804](#), [46.2-805](#), [46.2-807](#), [46.2-821](#), [46.2-822](#), [46.2-826](#), [46.2-830](#), [46.2-831](#), [46.2-832](#), [46.2-833](#), [46.2-834](#), [46.2-835](#), [46.2-836](#), and [46.2-846](#) of the Code of Virginia, relating to motor vehicles and the regulation of traffic.

[H 2106]

Approved March 6, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-100](#), [46.2-804](#), [46.2-805](#), [46.2-807](#), [46.2-821](#), [46.2-822](#), [46.2-826](#), [46.2-830](#), [46.2-831](#), [46.2-832](#), [46.2-833](#), [46.2-834](#), [46.2-835](#), [46.2-836](#), and [46.2-846](#) of the Code of Virginia are amended and reenacted as follows:

§ [46.2-100](#). Definitions.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"All-terrain vehicle" means a three-wheeled or four-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering that is intended for off-road use by an individual rider on various types of unpaved terrain. The term does not include four-wheeled vehicles, commonly known as "go-carts," that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any "utility vehicle" as defined in this section or any "farm utility vehicle" as defined in this section.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Veterans Administration. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: (i) central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ [46.2-800](#) et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having a gasoline or diesel engine, four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, riding lawn mowers, or all-terrain vehicles.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § [46.2-472](#).

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two

roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also include city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ [46.2-752](#), [46.2-753](#), and [46.2-754](#) and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that has (i) a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground and (ii) a gasoline, electric, or hybrid motor that displaces less than 50 cubic centimeters. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ [46.2-800](#) et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. For the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. The term "motorcycle" does not include any "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf

cart," "moped," "motorized skateboard or scooter," "utility vehicle" or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. The term "motorized skateboard or scooter" includes vehicles with or without handlebars, but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ [46.2-300](#) et seq.); (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle designed and used primarily for the transportation of no more than 10 persons including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a(1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § [46.2-1600](#), a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ [15.2-2200](#) et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § [46.2-1090](#). A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-

use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number, that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. The term does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or

shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § [46.2-113](#), which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § [46.2-2000](#); (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by an engine of no more than 25 horsepower, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include all-terrain vehicles as defined in this section, riding lawn mowers, or any other vehicle whose definition is included in this section.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ [46.2-800](#) et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. The term includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § [46.2-677](#), a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ [46.2-804](#). Special regulations applicable on highways laned for traffic.

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

1. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing, shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section;
2. A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely;

3. Except as otherwise provided in subdivision 5 of this section, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn or unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device;

4. The Commonwealth Transportation Board, or local authorities in their respective jurisdictions, may designate right lanes for slow-moving vehicles and the Virginia Department of Transportation shall post signs requiring trucks and combination vehicles to keep to the right on Interstate Highway System components with no more than two travel lanes in each direction where terrain is likely to slow the speed of such vehicles climbing hills and inclines to a speed that is less than the posted speed limit;

5. Wherever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line, but it shall be lawful to make a left turn for the purpose of entering or leaving a public, private, or commercial road or entrance. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left-turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet;

6. Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid *yellow* lines, no vehicle shall be driven to the left of such lines, except when turning left;

7. *Whenever a highway is marked with double traffic lines consisting of two immediately adjacent solid white lines, no vehicle shall cross such lines;*

8. *For the purposes of this section, "traffic lines" shall include any temporary traffic control devices used to emulate the lines and markings in subdivisions 6 and 7.*

§ [46.2-805](#). Lane-use control signals.

A. ~~When lane-direction~~ lane-use control signals are placed over the individual lanes of a highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown and shall vacate as soon as possible any lane over which an amber signal is shown.

B. *Vehicular traffic shall not enter or travel in a lane over which a one-way or two-way left turn white arrow lane-use control signal is shown, except to make the turning movement indicated by the signal. Such turning traffic shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic using the intersection.*

§ [46.2-807](#). Path of travel at circular intersections.

~~A vehicle passing around a rotary traffic island~~ through a circular intersection shall be driven only to the right of ~~such the central island, unless otherwise directed by traffic control devices.~~

§ [46.2-821](#). Vehicles before entering certain highways shall stop or yield right-of-way.

The driver of a vehicle approaching an intersection on a highway controlled by a stop sign shall, immediately before entering such intersection, stop at a clearly marked stop line, or, in the absence of a stop line, stop before entering the crosswalk on the near side of the intersection, or, in the absence of a marked crosswalk, stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting

roadway. Before proceeding, he shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.

Where a "Yield Right-of-Way" sign is posted, the driver of a vehicle approaching or entering such intersection shall slow down to a speed reasonable for the existing conditions, yield the right-of-way to the driver of another vehicle approaching or entering such intersection from another direction, and, if required for safety, shall stop at a clearly marked stop *or yield* line, or, in the absence of a stop *or yield* line, stop before entering the crosswalk on the near side of the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, and shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.

§ [46.2-822](#). Right-of-way at circular intersections.

~~At traffic circles~~ *circular intersections* vehicles already in the circle shall have the right-of-way over vehicles approaching and entering the circle, *unless otherwise directed by traffic control devices*.

§ [46.2-826](#). Stop before entering public highway or sidewalk from private road, etc.; yielding right-of-way.

The driver of a vehicle entering a public highway or sidewalk from a private road, driveway, alley, or building shall stop immediately before entering such highway or sidewalk and yield the right-of-way to vehicles approaching on such public highway and to pedestrians or vehicles approaching on such public sidewalk.

The provisions of this section shall not apply at an intersection of public and private roads controlled by a traffic ~~signal~~ *control device*. At any such intersection, all movement of traffic into and through the intersection shall be controlled by the traffic ~~signal~~ *control device*.

§ [46.2-830](#). Uniform traffic control devices on highways; drivers to obey traffic control devices; enforcement of section.

The Commonwealth Transportation Board may classify, designate, and mark state highways and provide a uniform system of ~~marking and signing~~ *traffic control devices* for such highways under the jurisdiction of the Commonwealth. Such system of ~~marking and signing~~ *traffic control devices* shall correlate with and, so far as possible, conform to the system adopted in other states.

All drivers of vehicles shall obey lawfully erected ~~signs~~ *traffic control devices*.

No provision of this section relating to the prohibition of disobeying ~~signs~~ *traffic control devices* or violating local traffic ~~signals, markings, and lights~~ *control devices* shall be enforced against an alleged violator if, at the time and place of the alleged violation, any such ~~sign, signal, marking, or light~~ *traffic control device* is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

§ [46.2-831](#). Unofficial traffic control devices prohibited; penalties.

No unauthorized person shall erect or maintain on any highway any warning or direction sign, signal, or light in imitation of any official ~~sign, signal, or light~~ *traffic control device* erected as provided by law. No person shall erect or maintain on any highway any traffic ~~or highway sign or signal~~ *control device* bearing any commercial advertising.

Nothing in this section shall prohibit the erection or maintenance of signs or signals bearing the name of an organization authorized to erect it by the Commonwealth Transportation Board or by the local authorities of counties, cities, and towns as provided by law. Nor shall this section be construed to prohibit the erection by contractors or public utility companies of temporary signs approved by the Virginia Department of Transportation warning motorists that work is in progress on or adjacent to the highway.

Any violation of this section shall constitute a Class 4 misdemeanor.

§ [46.2-832](#). Damaging or removing certain traffic control devices.

Any person who intentionally defaces, damages, knocks down, *or without authorization interferes with the effective operation of*, or removes any ~~legally posted highway sign~~ traffic control device or a street address sign posted to assist in address identification in connection with enhanced [9-1-1](#) service as defined in § [56-484.12](#) ~~shall be~~ is guilty of a Class 1 misdemeanor.

~~For the purposes of this section "highway sign" includes but is not limited to an electrically powered or electronic device installed or erected by the Virginia Department of Transportation or a local governmental agency to prevent collisions, control traffic, or provide guidance or warning to operators of motor vehicles.~~

§ [46.2-833](#). Traffic lights; penalty.

A. Signals by traffic lights shall be as follows:

Steady red indicates that moving traffic shall stop and remain stopped as long as the red signal is shown, except in the direction indicated by a ~~lighted~~ steady green arrow.

Green indicates the traffic shall move in the direction of the signal and remain in motion as long as the green signal is given, except that such traffic shall yield to other vehicles and pedestrians lawfully within the intersection.

Steady amber indicates that a change is about to be made in the direction of the moving of traffic. When the amber signal is shown, traffic which has not already entered the intersection, including the crosswalks, shall stop if it is not reasonably safe to continue, but traffic which has already entered the intersection shall continue to move until the intersection has been cleared. ~~The amber signal is a warning that the steady red signal is imminent.~~

Flashing *circular* red indicates that traffic shall stop before entering an intersection. *Such traffic shall yield the right-of-way to pedestrian and vehicular traffic lawfully within the intersection.*

Flashing red arrow indicates that traffic shall stop before entering an intersection. After stopping, traffic may cautiously enter the intersection to turn in the direction of the signal. Such traffic shall yield the right-of-way to pedestrian and vehicular traffic lawfully within the intersection.

Flashing *circular* amber indicates that traffic may proceed through the intersection or past such signal with reasonable care under the circumstances. *Such traffic shall yield the right-of-way to pedestrian and vehicular traffic lawfully within the intersection.*

Flashing amber arrow indicates that traffic may turn in the direction of such signal with reasonable care under the circumstances. Such traffic shall yield the right-of-way to pedestrian and vehicular traffic lawfully within the intersection.

B. Notwithstanding any other provision of law, if a driver of a motorcycle or moped or a bicycle rider approaches an intersection that is controlled by a traffic light, the driver or rider may proceed through the intersection on a steady red light only if the driver or rider (i) comes to a full and complete stop at the intersection for two complete cycles of the traffic light or for two minutes, whichever is shorter, (ii) exercises due care as provided by law, (iii) otherwise treats the traffic control device as a stop sign, (iv) determines that it is safe to proceed, and (v) yields the right of way to the driver of any vehicle approaching on such other highway from either direction.

C. If the traffic lights controlling an intersection are out of service because of a power failure or other event that prevents the giving of signals by the traffic lights, the drivers of vehicles approaching such an intersection shall proceed as though such intersection were controlled by a stop sign on all approaches. The provisions of this subsection shall not apply to: intersections controlled by portable stop signs, intersections with law-enforcement officers or other authorized persons directing traffic, or intersections controlled by traffic lights displaying flashing red or flashing amber lights as provided in subsection A.

D. The driver of any motor vehicle may be detained or arrested for a violation of this section if the detaining law-enforcement officer is in uniform, displays his badge of authority, and (i) has observed the violation or (ii) has received a message by radio or other wireless telecommunication device from another law-enforcement officer who observed the violation. In the case of a person being detained or arrested based on a radio message, the message shall be sent immediately after the violation is observed, and the observing officer shall furnish the license number or other positive identification of the vehicle to the detaining officer.

Violation of any provision of this section shall constitute a traffic infraction punishable by a fine of no more than \$350.

§ [46.2-834](#). Signals by law-enforcement officers, crossing guards, and flaggers.

A. Law-enforcement officers may assume control of traffic at any intersection, regardless of whether such intersection is controlled by lights, controlled by other traffic control devices, or uncontrolled. Whenever any law-enforcement officer so assumes control of traffic, all drivers of vehicles shall obey his signals.

B. Law-enforcement officers and uniformed school crossing guards may assume control of traffic otherwise controlled by lights, and in such event, signals by such officers and uniformed crossing guards shall take precedence over such traffic control devices.

C. Uniformed school crossing guards may control traffic at any marked school crossing, whether such crossing is at an intersection or another location. Uniformed school crossing guards who are supplied by their local school division with hand-held stop signs shall use such signs whenever controlling traffic as authorized in this subsection.

D. Whenever an authorized flagger assumes control of vehicular traffic into or through a temporary traffic control zone using hand-signaling devices or an automated flagger assistance device, all drivers of vehicles shall obey his signals.

§ [46.2-835](#). Right turn on steady red light after stopping.

Notwithstanding the provisions of § [46.2-833](#), except where ~~signs are~~ a traffic control device is placed prohibiting turns on steady red, vehicular traffic facing a steady red circular signal, after coming to a full stop, may cautiously enter the intersection and make a right turn.

Notwithstanding the provisions of § [46.2-833](#), except where a traffic control device is placed permitting turns on a steady red, vehicular traffic facing a steady red arrow, after coming to a full stop, shall remain standing until a signal to proceed is shown.

Such turning traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

§ [46.2-836](#). Left turn on steady red after stopping.

Notwithstanding the provisions of § [46.2-833](#), except where ~~signs are~~ *a traffic control device is placed prohibiting turns on steady red, vehicular traffic facing a steady red circular signal on a one-way highway, after coming to a full stop, may cautiously enter the intersection and make a left turn onto another one-way highway.*

Notwithstanding the provisions of § [46.2-833](#), except where a traffic control device is placed permitting turns on a steady red, vehicular traffic facing a steady red arrow signal, after coming to a full stop, shall remain standing until a signal to proceed is shown.

Such turning traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

§ [46.2-846](#). Required position and method of turning at intersections; local regulations.

A. Except where turning is prohibited, a driver intending to turn at an intersection or other location on any highway shall execute the turn as provided in this section.

1. Right turns: Both the approach for a right turn and a right turn shall be made as close as practicable to the right curb or edge of the roadway.

2. Left turns on two-way roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made from the right half of the roadway and as close as possible to the roadway's center line, passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made to the left of the center of the intersection.

3. Left turns on other than two-way roadways: At any intersection where traffic is restricted to one direction on one or more of the roadways, and at any crossover from one roadway of a divided highway to another roadway thereof on which traffic moves in the opposite direction, the driver intending to turn left at any such intersection or crossover shall approach the intersection or crossover in the extreme left lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection or crossover the left turn shall be made so as to leave the intersection or crossover, as nearly as practicable, in the left lane lawfully available to traffic moving in such direction upon the roadway being entered.

B. Local authorities having the power to regulate traffic in their respective jurisdictions may cause ~~markers or signs~~ *traffic control devices* to be placed within or adjacent to intersections and thereby direct that a different course from that specified in this section be traveled by vehicles turning at any intersection. When ~~markers or signs~~ *traffic control devices* are so placed, no driver shall turn a vehicle at an intersection other than as directed by such ~~markers or signs~~ *traffic control devices*.

Escort driver certification. Provides for the certification and regulation of escort drivers in the Commonwealth. The bill also adds a traffic infraction for impeding or disrupting vehicles operating under a hauling permit that requires an escort vehicle. The bill has a delayed effective date of January 1, 2014. This bill is identical to [SB 1284](#).

CHAPTER 312

An Act to amend and reenact § [46.2-348](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [46.2-828.2](#) and by adding in Title 46.2 a chapter numbered 29, consisting of sections numbered [46.2-2900](#) through [46.2-2910](#), relating to the certification and regulation of escort vehicle drivers.

[H 2243]

Approved March 13, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-348](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [46.2-828.2](#) and by adding in Title 46.2 a chapter numbered 29, consisting of sections numbered [46.2-2900](#) through [46.2-2910](#), as follows:

§ [46.2-348](#). Fraud or false statements in applications for license; penalties.

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license or *escort vehicle driver certificate*, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in his application ~~shall be~~ is guilty of a Class 2 misdemeanor. However, where the license is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of residency under § [9.1-903](#), a violation of this section shall be punishable as a Class 4 felony.

§ [46.2-828.2](#). *Impeding or disrupting vehicles operating under a valid highway hauling permit.*

A. It shall be unlawful for the operator of any motor vehicle intentionally to impede or disrupt any vehicle or vehicles being operated under a valid highway hauling permit, issued under the provisions of § [46.2-1139](#), that requires an escort vehicle or vehicles. Any person convicted of violating this subsection is guilty of a traffic infraction and shall, in addition to a penalty assessed pursuant to § [46.2-113](#), be assessed four driver demerit points.

B. This section shall apply only to vehicles being operated under a valid highway hauling permit issued under the provisions of § [46.2-1139](#) that are either (i) traveling under police or sheriff's escort or (ii) being escorted or led by an escort vehicle driver operating an escort vehicle required by the highway hauling permit.

CHAPTER 29.

CERTIFIED ESCORT VEHICLE DRIVERS.

§ [46.2-2900](#). Definitions.

As used in this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Certified escort vehicle driver" means a person, 21 years of age or older, who holds a valid driver's license and a valid escort vehicle driver certificate issued (i) by the Commonwealth or (ii) by a state whose escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity.

"Escort vehicle driver certificate" means a credential issued under the laws of the Commonwealth or other state authorizing the holder to escort a permitted vehicle or vehicles.

"Permitted vehicle or vehicles" means any vehicle being operated under the provisions of a valid highway hauling permit issued pursuant to § [46.2-1139](#) that requires that the permitted vehicle or vehicles be accompanied by a certified escort vehicle driver or drivers.

§ [46.2-2901](#). *Certificate required.*

No person shall escort any vehicle that is being moved by authority of a valid highway hauling permit requiring a certified escort vehicle driver and issued pursuant to § [46.2-1139](#) unless such person holds a valid driver's license and a valid escort vehicle driver certificate issued by the Commonwealth or another state that has a reciprocal agreement with the Commonwealth recognizing escort vehicle driver certificates issued by that state.

An escort vehicle driver certificate shall be deemed invalid if the certificate holder's driver's license has expired or has been suspended, revoked, or canceled.

§ [46.2-2902](#). *Insurance to be kept in force; amount.*

Each person or company providing certified escort vehicle services shall keep in force at all times valid liability insurance coverage for those classes of insurance defined in §§ [38.2-117](#) and [38.2-118](#) in the amount of at least \$750,000 that has been issued by an insurance carrier authorized to do business in the Commonwealth.

§ [46.2-2903](#). *Eligibility for escort vehicle driver certificate.*

A Virginia escort vehicle driver certificate shall be issued only to a person who intends to provide certified vehicle escort services for a permitted vehicle and who (i) holds a valid Virginia driver's license and who is domiciled in the Commonwealth or (ii) is a nonresident who meets the requirements of § [46.2-2907](#) or [46.2-2908](#).

No person shall be eligible for a Virginia escort vehicle driver certificate until he has (a) passed the applicable training course and knowledge test required by this chapter and has satisfied all other applicable requirements imposed by the laws of the Commonwealth or (b) has met the requirements of § [46.2-2907](#) or [46.2-2908](#).

No person shall be eligible for a Virginia escort vehicle driver certificate during any period in which his driver's license or privilege to drive is expired or is suspended, revoked, or canceled in any state or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

§ [46.2-2904](#). *Certified escort vehicle driver training.*

Every applicant for a Virginia escort vehicle driver certificate shall undergo and successfully complete an eight-hour training course presented by a business, organization, governmental entity, or individual that has been approved by the Department and that offers a course approved by the Department.

§ [46.2-2905](#). *Knowledge test; waiting period prior to reexamination.*

The Department shall examine every applicant for an escort vehicle driver certificate before issuing a Virginia escort vehicle driver certificate. Every applicant shall be required to take and pass an escort vehicle driver knowledge test. Prior to taking the knowledge test, the applicant shall present evidence that he has completed a state-approved escort vehicle driver certification training course pursuant to the provisions of § [46.2-2904](#).

Any person who applies for an escort vehicle driver certificate under § [46.2-2906](#) and fails the knowledge test administered pursuant to that section three times shall not be eligible for retesting for at least 30 days. A reexamination fee of \$2 shall be charged for the second and subsequent test in the same manner as provided for driver license testing under the provisions of § [46.2-332](#).

§ [46.2-2906](#). Application for escort vehicle driver certificate; driving record; proof of completion of escort vehicle driver training; fee.

A. Every application for an escort vehicle driver certificate shall be made on a form prescribed by the Department, and the applicant shall write his usual signature in ink in the space provided on the form. A person who applies for an escort vehicle driver certificate must meet the following requirements:

- 1. Be at least 21 years of age;*
- 2. Hold a valid Virginia driver's license or a valid driver's license for another state;*
- 3. Authorize the Department to review his driving record;*
- 4. Present satisfactory proof of successful completion of an eight-hour escort vehicle driver certification training course, as required by § [46.2-2904](#);*
- 5. Pass the escort vehicle driver certification knowledge test as required by § [46.2-2905](#) with a score of 80 percent or higher; and*
- 6. Pay the appropriate fee for certificate issuance.*

B. Every application shall state the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address. The applicant shall also answer any questions on the application form, or otherwise propounded, and provide any other information as required by the Department incidental to the application.

C. The Commissioner shall require that each application include a certification statement, to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct. If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant an escort vehicle driver certificate.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § [46.2-348](#).

§ [46.2-2907](#). Nonresident; extensions of reciprocal privileges.

A nonresident age 21 years or older who has been duly licensed as a driver under a law regulating the licensure of drivers in his home state and who has in his immediate possession a valid driver's license and a valid escort vehicle driver certificate issued to him in his home state, where such state's escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity, shall be permitted without a Virginia license or a Virginia escort vehicle driver certificate to escort a permitted vehicle or vehicles on the highways of the Commonwealth. Such nonresident shall be exempt from the escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

If such nonresident desires to also hold a Virginia escort vehicle driver certificate, in addition to the valid certificate issued to him by his home state, he must then meet all of the Virginia escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

§ [46.2-2908](#). *Nonresident; issuance of Virginia escort vehicle driver certificate; nonreciprocal state.*

A nonresident who has not been issued an escort vehicle driver certificate in his home state but who has in his immediate possession a valid driver's license issued by his home state may be certified through Virginia's Escort Vehicle Driver Certification Program. Such nonresident must meet all escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

A nonresident who has in his immediate possession a valid driver's license and valid escort vehicle driver certificate issued to him by his home state, to which state's escort vehicle driver certification program the Commonwealth has not extended reciprocity, may be certified through Virginia's Escort Vehicle Driver Certification Program. Such nonresident must meet all escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

§ [46.2-2909](#). *Issuance, expiration, and renewal of certificate; fees.*

The fee for issuance of an original or renewal escort vehicle driver certificate shall be \$5 for each year of validity. The certificate shall be valid for five years and expire on the last day of the month of issuance. Notwithstanding this limitation, the Commissioner may extend the validity period of an expiring certificate if (i) the Department is unable to process an application for renewal due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no case shall the validity period be extended more than 90 days per occurrence of such conditions.

Persons who wish to renew an escort vehicle driver certificate shall successfully pass the escort vehicle driver certification knowledge test prior to recertification.

§ [46.2-2910](#). *Certified escort vehicle drivers; duties and responsibilities.*

A. Each certified escort vehicle driver shall have in his possession his escort vehicle driver certificate and proof of insurance while escorting a permitted vehicle. The driver's certificate, driver's license, and proof of insurance must be presented when requested by any Department of Motor Vehicles size and weight compliance agent, law-enforcement officer, or Department of Transportation official. Failure of the certified escort vehicle driver to have the certificate, driver's license, or proof of insurance in his possession while escorting a permitted vehicle or load may cause the movement of the permitted vehicle to be interrupted until properly credentialed escort services can be obtained.

B. The driver of an escort vehicle shall comply with all applicable traffic laws and with the requirements of this chapter when escorting a permitted vehicle or vehicles on all roads within the Commonwealth.

2. That the provisions of this act shall become effective on January 1, 2014.

Motor carrier and commercial driver's licensing. Amends several motor carrier and commercial driver's licensing laws. The bill clarifies and strengthens fitness and operating authority requirements for intrastate motor carriers. It also enables Virginia to comply with new Federal Motor Carrier Safety Administration regulation amendments regarding commercial motor vehicles and a prohibition on texting in commercial motor vehicles, and it codifies federal commercial driver's license requirements. This bill is identical to [SB 1219](#).

CHAPTER 582

An Act to amend and reenact §§ [19.2-389](#), [46.2-311](#), [46.2-324.1](#), [46.2-341.4](#), [46.2-341.7](#), [46.2-341.8](#), [46.2-341.9](#), [46.2-341.10](#), [46.2-341.12](#), [46.2-341.14](#), [46.2-341.15](#), [46.2-341.16](#), [46.2-341.20](#), [46.2-348](#), [46.2-1076](#), [46.2-2001.1](#), [46.2-2001.3](#), [46.2-2005](#), [46.2-2011.9](#), [46.2-2011.11](#), [46.2-2011.23](#), [46.2-2011.24](#), [46.2-2099.19](#), [46.2-2108.4](#), [46.2-2122](#), [46.2-2132](#), [46.2-2133](#), and [46.2-2176](#) of the Code of Virginia and to amend the Code of Virginia by adding sections numbered [46.2-341.14:1](#) through [46.2-341.14:10](#), [46.2-341.20:4](#), and [46.2-341.20:5](#), relating to motor carriers and commercial driver's licenses; penalties.

[H 2077]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [19.2-389](#), [46.2-311](#), [46.2-324.1](#), [46.2-341.4](#), [46.2-341.7](#), [46.2-341.8](#), [46.2-341.9](#), [46.2-341.10](#), [46.2-341.12](#), [46.2-341.14](#), [46.2-341.15](#), [46.2-341.16](#), [46.2-341.20](#), [46.2-348](#), [46.2-1076](#), [46.2-2001.1](#), [46.2-2001.3](#), [46.2-2005](#), [46.2-2011.9](#), [46.2-2011.11](#), [46.2-2011.23](#), [46.2-2011.24](#), [46.2-2099.19](#), [46.2-2108.4](#), [46.2-2122](#), [46.2-2132](#), [46.2-2133](#), and [46.2-2176](#) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered [46.2-341.14:1](#) through [46.2-341.14:10](#), [46.2-341.20:4](#), and [46.2-341.20:5](#) as follows:

§ [19.2-389](#). Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § [9.1-101](#), for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § [53.1-136](#) shall include collective dissemination by electronic means every 30 days;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;
6. Individuals and agencies where authorized by court order or court rule;
7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;
- 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ [15.2-4500](#) et seq.) and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;
8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ [63.2-901.1](#) and [63.2-1505](#), subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;
9. To the extent permitted by federal law or regulation, public service companies as defined in § [56-1](#), for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;
10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;
11. A person requesting a copy of his own criminal history record information as defined in § [9.1-101](#) at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § [15.2-1713.1](#);
12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § [63.2-100](#) for dissemination to the Commissioner of Social Services' representative pursuant to § [63.2-1702](#) for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ [63.2-1719](#), [63.2-1720](#), and [63.2-1721](#), subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § [19.2-83.1](#);
14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ [58.1-4000](#) et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2;
15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § [32.1-126.01](#), hospital pharmacies pursuant to § [32.1-126.02](#), and home care organizations pursuant to § [32.1-162.9:1](#), subject to the limitations set out in subsection E;
16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § [63.2-1720](#), in licensed district homes for adults pursuant to § [63.1-189.1](#), and in licensed adult day-care centers pursuant to § [63.2-1720](#), subject to the limitations set out in subsection F;
17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § [4.1-103.1](#);
18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;
19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ [19.2-169.2](#), [19.2-169.6](#), [19.2-182.2](#), [19.2-182.3](#), [19.2-182.8](#), and [19.2-182.9](#) for the purpose of placement, evaluation, and treatment planning;
20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § [46.2-360](#), (ii) interventions with first offenders under § [18.2-251](#), or (iii) services to offenders under § [18.2-51.4](#), [18.2-266](#), or [18.2-266.1](#);
21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;
22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § [22.1-296.3](#), the governing boards or administrators of private or religious elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a public institution of higher education pursuant to § [23-9.2:10](#) or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment pursuant to §§ [37.2-506](#) and [37.2-607](#);
27. Executive directors of behavioral health authorities as defined in § [37.2-600](#) for the purpose of determining an individual's fitness for employment pursuant to §§ [37.2-506](#) and [37.2-607](#);
28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;
29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ [37.2-403](#) et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ [37.2-416](#), [37.2-506](#), and [37.2-607](#);
30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for *and holders of* a motor carrier certificate or license subject to the provisions of Chapters 20 (§ [46.2-2000](#) et seq.) and 21 (§ [46.2-2100](#) et seq.) of Title 46.2;
31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;
32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § [2.2-1201.1](#). Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;
33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ [37.2-900](#) et seq.);
34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § [63.2-1601.1](#), subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;
37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family

Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ [6.2-1600](#) et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to § [6.2-1605](#), the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § [54.1-2106.1](#);

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ [51.5-170](#) et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § [19.2-120](#);

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § [8.01-195.12](#); and

43. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records

Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § [15.2-1722](#).

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ [32.1-126.01](#), [32.1-126.02](#), and [32.1-162.9:1](#).

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § [63.1-189.1](#) or [63.2-1720](#).

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § [63.2-1719](#).

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ [46.2-311](#). Persons having defective vision; minimum standards of visual acuity and field of vision; tests of vision.

A. The Department shall not issue a driver's license or learner's permit (i) to any person unless he demonstrates a visual acuity of at least 20/40 in one or both eyes with or without corrective lenses or (ii) to any such person unless he demonstrates at least a field of 100 degrees of horizontal vision in one or both eyes or a comparable measurement that demonstrates a visual field within this range. However, a license permitting the driving of motor vehicles during a period beginning one-half hour after sunrise and ending one-half hour before sunset, may be issued to a person who demonstrates a visual acuity of at least 20/70 in one or both eyes without or with corrective lenses provided he demonstrates at least a field of seventy degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range, and further provided that if such person has vision in one eye only, he demonstrates at least a field of forty degrees temporal and thirty degrees nasal horizontal vision or a comparable measurement that demonstrates a visual field within this range.

B. The Department shall not issue a driver's license or learner's permit to any person authorizing the driving of a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.) unless he demonstrates a visual acuity of at least 20/40 in each eye and at least a field of 140 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range.

C. Every person applying to renew a driver's license and required to be reexamined as a prerequisite to the renewal of the license, shall:

1. Appear before a license examiner of the Department to demonstrate his visual acuity and horizontal field of vision, or
2. Accompany his application with a report of such examination made within ninety days prior thereto by an ophthalmologist or optometrist.

D. The test of horizontal visual fields made by license examiners of the Department shall be performed at thirty-three and one-third centimeters with a ten millimeter round white test object or may, at the discretion of the

Commissioner, be performed with electronic or other devices designed for the purpose of testing visual acuity and horizontal field of vision. The report of examination of visual acuity and horizontal field of vision made by an ophthalmologist or optometrist shall have precedence over an examination made by a license examiner of the Department in administrative determination as to the issuance of a license to drive. Any such report may, in the discretion of the Commissioner, be referred to a medical advisory board or to the State Health Commissioner for evaluation.

E. Notwithstanding the provisions of subsection B of this section, any person who is licensed to drive any motor vehicle may, on special application to the Department, be licensed to drive any vehicle, provided the operation of the vehicle would not unduly endanger the public safety, as determined by the Commissioner ~~pursuant to regulations established by the Department.~~

The Commissioner may waive the vision requirements of subsection B for any commercial driver's license applicant who either (i) is subject to the Federal Motor Carrier Safety Regulations but is exempt from the vision standards of 49 C.F.R. Part 391 or (ii) is not required to meet the vision standards specified in 49 C.F.R. § 391.41 of the regulations.

In order to determine whether such a waiver would unduly endanger the public safety, the Commissioner shall require such commercial driver's license applicant to submit a special waiver application and to provide all medical information relating to his vision that may be requested by the Department. The Department may require such commercial driver's license applicant to take a road test administered by the Department before determining whether to grant a waiver. If a waiver is granted, the Department may subject the applicant's use of a commercial motor vehicle to reasonable restrictions, which shall be noted on the commercial driver's license. If a waiver is granted, the Department may also limit the validity period of the commercial driver's license, and the expiration date shall be noted on the commercial driver's license.

§ [46.2-324.1](#). Requirements for initial licensure of certain applicants.

A. No driver's license shall be issued to any applicant unless he either (i) provides written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or Department of Education; ~~or (ii) has held an instructional permit issued by the Department for at least 30 days prior to his first behind the wheel examination by the Department when applying for a commercial driver's license, or (iii) has held a learner's permit issued by the Department for at least 60 days prior to his first behind-the-wheel examination by the Department when applying for a noncommercial driver's license.~~

The provisions of this section shall only apply to persons who are at least 19 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate, ~~except that the provisions of this section shall apply to applicants for commercial driver's licenses who are.~~

B. ~~No commercial driver's license shall be issued to any applicant unless he is 18 years old or older and has complied with the requirements of § [46.2-341.9](#). Applicants for a commercial driver's license who have never before held a commercial driver's license or have never held the license endorsement or classification required to operate the type of commercial motor vehicle that they now propose to operate shall apply for a commercial driver's instruction permit and either (i) provide written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or Department of Education and hold the commercial driver's instruction permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license or (ii) hold the commercial driver's instruction permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.~~

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must apply for a commercial driver's instruction permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § [46.2-325](#) and the written or automated examinations as prescribed in § [46.2-335](#).

§ [46.2-341.4](#). Definitions.

The following definitions shall apply to this article, unless a different meaning is clearly required by the context:

"Air brake" means, for the purposes of the skills test and the restriction, any braking system operating fully or partially on the air brake principle.

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

"Commercial driver's instruction permit" means a permit issued to an individual in accordance with the provisions of this article, or if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial driver's instruction permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid. For purposes of this article "Commercial driver's instruction permit" shall have the same meaning as "Commercial learner's permit (CLP)" in 49 C.F.R. § 383.5 of the Federal Motor Carrier Safety regulations.

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial driver's license information system" (CDLIS) means the CDLIS established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively

for farm use, as defined in § [46.2-698](#), (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm; or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

"Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law [99-570](#), as amended.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

"Disqualification" means a prohibition against driving, operating or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

"Domicile" means a person's true, fixed and permanent home and principal residence, to which he intends to return whenever he is absent.

"Employee" means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a commercial driver's license.

"Employer" means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

"Endorsement" means an authorization to an individual's commercial driver's license or commercial driver's instruction permit required to permit the individual to operate certain types of commercial motor vehicles.

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Full air brake restriction" means, for the purposes of the skills test and restriction, air over hydraulic brakes, including any braking system operating partially on the air brake and partially on the hydraulic brake.

"Gross combination weight rating" means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration; however, the registered gross weight shall not be applicable for determining the classification of an articulated vehicle or combination of vehicles for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

"Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the maximum loaded weight of a single vehicle. In the absence of such a value specified by the manufacturer, for law-

enforcement purposes, the gross vehicle weight rating shall be the greater of (i) the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

"Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the federal Hazardous Materials Transportation Act, as amended, (49 U.S.C. § 5101 et seq.) and which require placarding when transported by motor vehicle as provided in the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

"Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission) means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated by either hand or foot.

"Non-commercial driver's license" means any other type of motor vehicle license, such as an automobile driver's license, a chauffeur's license, or a motorcycle license.

"Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to § [46.2-341.26:2](#) or [46.2-341.26:3](#) or an order or declaration by an authorized law-enforcement officer under § [46.2-1001](#) or regulations promulgated pursuant to § [52-8.4](#) relating to Motor Carrier Safety, and including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within them, and also including actions by federal or other jurisdictions' officers pursuant to federal Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the provisions of the federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the Virginia laws referenced herein.

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Restriction" means a prohibition on a commercial driver's license or commercial driver's instruction permit that prohibits the holder from operating certain commercial motor vehicles.

"Seasonal restricted commercial driver's license" means a commercial driver's license issued, under the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3) by Virginia or any other jurisdiction, to an individual who has not passed the knowledge or skills tests required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service business, within 150 miles of the place of business or the farm currently being served.

"State" means one of the 50 states of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171.

However, this definition does not include portable tanks having a rated capacity under 1,000 gallons *as provided in 49 C.F.R. Part 383. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.*

"Third party examiner" means an individual who is an employee of a third party tester and who is certified by the Department to administer the skills test required for a commercial driver's license.

"Third party tester" means a person (including, but not limited to, another state, a motor carrier, a private institution, or a department, agency, or instrumentality of a local government) certified by the Department to employ third party examiners to administer a skills test program for testing commercial driver's license applicants in accordance with this article.

"VAMCSR" means the Virginia Motor Carrier Safety Regulations (19 VAC [30-20-10](#) et seq.) adopted by the Department of State Police pursuant to § [52-8.4](#).

§ [46.2-341.7](#). Commercial driver's license required; penalty.

A. No person shall drive a commercial motor vehicle in the Commonwealth unless he has been issued a commercial driver's license *or commercial driver's instruction permit* and unless such license *or permit* authorizes the operation of the type and class of vehicle so driven, and unless such license *or permit* is valid.

B. Every driver of a commercial motor vehicle, while driving such vehicle in the Commonwealth, shall have in his immediate possession the commercial driver's license *or commercial driver's instruction permit* authorizing the operation of such vehicle and shall make it available to any law-enforcement officer upon request. Failure to comply with this subsection shall be punishable as provided in § [46.2-104](#).

C. No person shall drive a commercial vehicle in Virginia in violation of any of the restrictions or limitations stated on his commercial driver's license *or commercial driver's instruction permit*. A violation of the subsection shall constitute a Class 2 misdemeanor.

§ [46.2-341.8](#). Nonresidents and new residents.

Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial driver's license *or commercial driver's instruction permit* by his state of domicile, who has such license *or permit* in his immediate possession, whose privilege or license to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle, shall be permitted without further examination or licensure by the Commonwealth, to drive a commercial motor vehicle in the Commonwealth.

Within ~~thirty~~ 30 days after becoming domiciled in this Commonwealth, any person who has been issued a commercial driver's license *or commercial driver's instruction permit* by another state and who intends to drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's license *or commercial driver's instruction permit*. *If the Commissioner determines that such applicant is otherwise eligible for a commercial driver's license or commercial driver's instruction permit, the Department will issue him a Virginia commercial driver's license or commercial driver's instruction permit with the same classification and endorsements as his commercial driver's license or commercial driver's instruction permit from another state, without requiring him to take the knowledge or skills test required for such commercial driver's license or commercial driver's instruction permit in accordance with § [46.2-330](#).* The Commissioner may establish, by regulation, the criteria by which the test requirements for a commercial driver's license may be waived for any such applicant.

§ [46.2-341.9](#). Eligibility for commercial driver's license or commercial driver's instruction permit.

A Virginia commercial driver's license *or commercial driver's instruction permit* shall be issued only to a person who drives or intends to drive a commercial motor vehicle and who is domiciled in the Commonwealth, provided that any person who is domiciled in a jurisdiction outside the United States, but has resided in the Commonwealth for a period of six weeks, shall be eligible for a commercial driver's license *or commercial driver's instruction permit* under such terms and conditions as the Department may require.

No person shall be eligible for a Virginia commercial driver's license *or commercial driver's instruction permit* until he has applied for such license *or permit* and has passed the applicable vision, knowledge and skills tests required by this article, and has satisfied all other applicable licensing requirements imposed by the laws of the Commonwealth. *Such requirements shall include meeting the standards contained in subparts F, G, and H, of Part 383 of the FMCSA regulations.*

No person shall be eligible for a Virginia commercial driver's license *or commercial driver's instruction permit* during any period in which he is disqualified from driving a commercial motor vehicle, or his driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

No person shall be eligible for a Virginia commercial driver's license until he surrenders all other driver's licenses issued to him by any state.

No person shall be eligible for a Virginia commercial driver's instruction permit until he surrenders all other driver's licenses and permits issued to him by any other state. The applicant for a commercial driver's instruction permit is not required to surrender his Virginia noncommercial driver's license.

No person under the age of 21 years shall be eligible for a commercial driver's license, except that a person who is at least 18 years of age may be issued a commercial driver's license *or commercial driver's instruction permit*, provided that such person is exempt from or is not subject to the age requirements of the ~~federal~~ Federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has so certified. No person under the age of 21 years shall be issued a hazardous materials endorsement.

No person shall be eligible for a Virginia commercial driver's license to drive a Type S vehicle, as defined in subsection B of § [46.2-341.16](#), during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1.

In determining the eligibility of any applicant for a Virginia commercial driver's license, the Department shall consider, to the extent not inconsistent with federal law, the applicant's military training and experience.

A person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1 may be issued a Virginia commercial driver's license to drive a Type P vehicle, as defined in subsection B of § [46.2-341.16](#), provided the commercial driver's license includes a restriction prohibiting the license holder from operating a commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services.

§ [46.2-341.10](#). Special provisions relating to commercial driver's instruction permit.

A. The Department, upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial driver's instruction permit. Such permit shall expire one year after issuance and shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the

applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial driver's instruction permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. *A commercial driver's instruction permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. The P endorsement must be class specific.*

D. *A commercial driver's instruction permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. No person shall be issued a commercial driver's instruction permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1.*

E. *A commercial driver's instruction permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.*

F. *The issuance of a commercial driver's instruction permit is a precondition to the initial issuance of a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial driver's instruction permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § [46.2-324.1](#).*

G. Any instruction permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of three dollars for each instruction permit issued under the provisions of this section.

§ [46.2-341.12](#). Application for commercial driver's license and commercial driver's instruction permit.

A. Every application to the Department for a commercial driver's license or commercial driver's instruction permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight and eye and hair color;
4. Year, month and date of birth;
5. Social Security number; and

6. Any other information required on the application form.

The applicant's Social Security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

B. Every applicant for a commercial driver's license *or commercial driver's instruction permit* shall also submit to the Department the following:

1. A consent to release driving record information;

2. Certifications that:

a. He either meets the federal qualification requirements of 49 C.F.R. Part 391, or he is exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § [52-8.4](#), or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, legal presence, residency, and social security number; and

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § [46.2-323](#).

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license *or commercial driver's instruction permit*. The Department shall take such action within 30 days after discovering such falsification.

E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license *or commercial driver's instruction permit*, for the renewal or reinstatement of such license *or permit* or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. *Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or commercial driver's instruction permit.* If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial

Motor Vehicle Safety Act and the National Driver Register *Problem Driver Pointer System* in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial driver's instruction permit, transfer of a commercial driver's license from another state, or for drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not previously had their Social Security number information verified. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done.

F. On and after January 30, 2012, every new applicant for a commercial driver's license *or commercial driver's instruction permit*, including any person applying for a commercial driver's license *or permit* after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. Part 390.5. Any new applicant for a commercial driver's license who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license by the Department.

G. On and after January 30, 2012, but no later than January 30, 2014, every existing holder of a commercial driver's license *or commercial driver's instruction permit* who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. Part 390.5. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. Part 383.5.

H. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections F and G shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. Part 383.5.

I. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. Part 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. Part 383.5.

K. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

§ [46.2-341.14](#). Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the time they apply for a commercial driver's license if:

1. The applicant has not, and certifies that he has not, at any time during the two years immediately preceding the date of application:

a. Had more than one driver's license, except during the ten-day period beginning on the date such person is issued a driver's license, or unless, prior to December 31, 1989, such applicant was required to have more than one license by a state law enacted before June 1, 1986;

b. Had any driver's license or driving privilege suspended, revoked or canceled;

c. Had any convictions involving any kind of motor vehicle for the offenses listed in § [46.2-341.18](#), [46.2-341.19](#), or [46.2-341.20](#); and

d. Been convicted of a violation of state or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; and

2. The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and either:

a. Has previously taken and successfully completed a skills test which was administered by a state with a classified licensing and testing system and that test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or

b. Has operated, for at least two years immediately preceding the application date, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

D. The Commissioner may, in his discretion, designate such persons as he deems fit, including private or governmental entities, to administer the skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all *statutes and regulations* ~~promulgated by the Commissioner~~ with respect to the administration of such skills tests.

The Commissioner shall require all state knowledge and skills test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. State test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state commercial driver's license skills test examiners.

E. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a *copy of the vision examination report of which was used as the basis for* such examination made within ~~ninety~~ 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

F. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or the Department of Education.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § [46.2-322](#).

G. *Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.*

H. *Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.*

§ [46.2-341.14:1](#). *Requirements for third party testers.*

A. *Pursuant to § [46.2-341.14](#), third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.*

B. *To qualify for certification, a third party tester shall:*

1. *Make application to and enter into an agreement with the Department as provided in § [46.2-341.14:3](#);*
2. *Maintain a place of business in Virginia;*
3. *Have at least one certified third party examiner in his employ;*
4. *Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ [46.2-341.14:2](#) and [46.2-341.14:7](#);*
5. *Permit the Department and the FMCSA of the U.S. Department of Transportation to examine records that relate to the third party testing program and to audit his testing program;*
6. *Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license skills testing program and current third party agreement;*
7. *Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:*

- a. The complete name of the driver;*
 - b. The driver's Social Security number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;*
 - c. The date the driver took the skills test;*
 - d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;*
 - e. The name and certification number of the third party examiner conducting the skills test; and*
 - f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide;*
- 8. Maintain at a Virginia location a record of each third party examiner in the employ of the third party tester. Each record shall include:*
- a. Name and Social Security number;*
 - b. Evidence of the third party examiner's certification by the Department;*
 - c. A copy of the third party examiner's current driving record, which must be updated annually;*
 - d. Evidence that the third party examiner is an employee of the third party tester; and*
 - e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Virginia Department of Education;*
- 9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;*
- 10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ [46.2-341.14:8](#) and [46.2-341.14:9](#) and the instructions provided by the Department; and*
- 11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § [46.2-341.14:3](#).*

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities shall:

- 1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;*
- 2. Employ at least 75 Virginia-licensed drivers of commercial motor vehicles, during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § [46.2-341.14:10](#);*
- 3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory"; and*

4. Comply with the Virginia Motor Carrier Safety Regulations.

§ [46.2-341.14:2](#). Requirements for third party examiners.

A. Third party examiners may be certified to conduct skills tests on behalf of only one third party tester at any given time. If a third party examiner leaves the employ of a third party tester he must be recertified in order to conduct skills tests on behalf of a new third party tester.

B. To qualify for certification as a third party examiner, an individual must:

- 1. Make application to the Department as provided in § [46.2-341.14:3](#);*
- 2. Be an employee of the third party tester;*
- 3. Possess a valid Virginia commercial driver's license with the classification and endorsements required for operation of the class and type of commercial motor vehicle used in skills tests conducted by the examiner;*
- 4. Satisfactorily complete any third party examiner training course required by the Department;*
- 5. Within three years prior to application have had no driver's license suspensions, revocations, or disqualifications;*
- 6. At the time of application have no more than six demerit points on his driving record and not be on probation under the Virginia Driver Improvement Program;*
- 7. Within three years prior to application, have had no conviction for any offense listed in § [46.2-341.18](#) or [46.2-341.19](#), whether or not such offense was committed in a commercial motor vehicle;*
- 8. If the examiner is employed by a school board, be certified by the Virginia Department of Education as a school bus training instructor;*
- 9. Conduct skills tests on behalf of the third party tester in accordance with this article and in accordance with current instructions provided by the Department; and*
- 10. Successfully complete a training course and examination every four years to maintain the commercial driver's license test examiner certification.*

§ [46.2-341.14:3](#). Application for certification by the Department.

A. Application for third party tester certification.

1. An applicant for certification shall provide the following information in a format prescribed by the Department:

- a. Name, address, and telephone number of principal office or headquarters;*
- b. Name, title, address, and telephone number of an individual in Virginia who has been designated to be the applicant's contact person with the Department;*
- c. Description of the vehicle fleet owned or leased by the applicant, including the number of commercial motor vehicles by class and type;*

d. Classes and types of commercial motor vehicles for which the applicant seeks to be certified as a third party tester;

e. Total number of Virginia licensed drivers employed during the preceding 12 months to operate commercial motor vehicles and the number of such drivers who are full time, part time, and seasonal;

f. Name, driver's license number, and home address of each employee who is to be certified as a third party examiner. If any employee has previously been certified as an examiner by the Department, the examiner's certification number;

g. The address of each Virginia location where the third party tester intends to conduct skills tests and a map, drawing, or written description of each driving course that satisfies the Department's requirements for a skills test course;

h. If the applicant is not a governmental entity, it shall also provide: (i) a description of the applicant's business and length of time in business in Virginia; (ii) if subject to the FMCSA regulations, the applicant's Interstate Commerce Commission number or U.S. Department of Transportation number and rating; and (iii) the applicant's State Corporation Commission number; and

i. Any other relevant information required by the Department.

2. An applicant for certification shall also execute an agreement in a format prescribed by the Department in which the applicant agrees, at a minimum, to comply with the regulations and instructions of the Department for third party testers, including audit procedures, and agrees to hold the Department harmless from liability resulting from the third party tester's administration of its commercial driver's license skills test program.

B. Application for third party examiner certification.

1. An applicant for certification shall provide the following information in a format prescribed by the Department:

a. Name, home, and business addresses and telephone numbers;

b. Driver's license number;

c. Name, address, and telephone number of the principal office or headquarters of the applicant's employer, who has applied for and received certification as a third party tester;

d. Job title and description of duties and responsibilities;

e. Length of time employed by present employer. If less than two years, list previous employer, address, and telephone number;

f. Present employer's recommendation of the applicant for certification;

g. A list of the classes and types of vehicles for which the applicant seeks certification to conduct skills tests; and

h. Any other relevant information required by the Department.

C. Evaluation of applicant by the Department.

1. The Department will evaluate the materials submitted by the third party tester applicant, and, if the application materials are satisfactory, the Department will schedule an onsite inspection and audit of the applicant's third party testing program to complete the evaluation.

2. The Department will evaluate the materials submitted by the third party examiner applicant as well as the applicant's driving record. If the application materials and driving record are satisfactory, the Department will schedule the applicant for third party examiner training. Training may be waived if the applicant is seeking recertification only because he has changed employers.

3. No more than two applications will be accepted from any one third party tester or examiner applicant in any 12-month period, excluding applications for recertification because of a change in employers.

§ [46.2-341.14:4](#). Certification by the Department.

A. Upon successful application and evaluation, a third party tester will be issued a letter or certificate that will evidence his authority to administer a third party testing program and issue skills test certificates for the classes and types of vehicles listed.

B. Upon successful application, evaluation, and training, a third party examiner will be issued a letter or certificate that will evidence his authority to conduct skills tests for the classes and types of commercial motor vehicles listed.

C. Certification will remain valid until canceled by the Department or voluntarily relinquished by the third party tester or examiner.

§ [46.2-341.14:5](#). Terminating certification of third party tester or examiner.

A. Any third party tester or examiner may relinquish certification upon 30 days' notice to the Department. Relinquishment of certification by a third party tester or examiner shall not release such tester or examiner from any responsibility or liability that arises from his activities as a third party tester or examiner.

B. The Department reserves the right to cancel the third party testing program established by this article, in its entirety.

C. The Department shall revoke the skills testing certification of any examiner:

1. Who does not conduct skills test examinations of at least 10 different applicants per calendar year. However, examiners who do not meet the 10-test minimum must either take a refresher commercial driver's license training that complies with 49 C.F.R. § 384.228 or have a Department examiner ride along to observe the third party examiner successfully administer at least one skills test; or

2. Who does not successfully complete the required refresher training every four years pursuant to 49 C.F.R. § 384.228.

D. The Department may cancel the certification of an individual third party tester or examiner upon the following grounds:

1. Failure to comply with or satisfy any of the provisions of this article, federal standards for the commercial driver's license testing program, the Department's instructions, or the third party tester agreement;

2. Falsification of any record or information relating to the third party testing program; or

3. Commission of any act that compromises the integrity of the third party testing program.

E. If the Department determines that grounds for cancellation exist for failure to comply with or satisfy any of the requirements of this chapter or the third party tester agreement, the Department may postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

§ [46.2-341.14:6](#). Onsite inspections and audits.

A. Each applicant for certification as a third party tester shall permit the Department to conduct random examinations and to inspect and audit its operations, facilities, and records as they relate to its third party testing program, for the purpose of determining whether the applicant is qualified for certification. Each person who has been certified as a third party tester shall permit the Department to periodically inspect and audit his third party testing program to determine whether it remains in compliance with certification requirements.

B. The Department will perform its random examinations, inspections, and audits of third party testers during regular business hours with or without prior notice to the third party tester.

C. Inspections and audits of third party testers will occur at a minimum once every two years and include, at a minimum, an examination of:

- 1. Records relating to the third party testing program;*
- 2. Evidence of compliance with the FMCSA regulations and Virginia Motor Carrier Safety Regulations;*
- 3. Skills testing procedures, practices, and operations;*
- 4. Vehicles used for testing;*
- 5. Qualifications of third party examiners;*
- 6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been issued skills test certificates by the third party tester to compare pass/fail results, (ii) having Department employees covertly take the skills tests from a third party examiner, or (iii) having Department employees co-score along with the third party examiner during commercial driver's license applicant's skills tests to compare pass/fail results;*
- 7. A comparison of the commercial driver's license skills test results of applicants who are issued commercial driver's licenses with the commercial driver's license scoring sheets that are maintained in the third party testers' files; and*
- 8. Any other aspect of the third party tester's operation that the Department determines is necessary to verify that the third party tester meets or continues to meet the requirements for certification.*

D. The Department will prepare a written report of the results of each inspection and audit of third party testers. A copy of the report will be provided to the third party tester.

§ [46.2-341.14:7](#). Notification requirements.

A. Every third party tester shall:

- 1. Notify the Department in a format prescribed by the Department within 10 days of any change in:*
 - a. The third party tester's name or address; or*

b. The third party examiners who are employed by the third party tester.

2. Notify the Department in a format prescribed by the Department within 10 days of any of the following occurrences:

a. The third party tester ceases business operations in Virginia;

b. The third party tester fails to comply with any of the requirements set forth in this article; or

c. Any third party examiner fails to comply with any of the requirements set forth in this article.

3. Notify the Department of any proposed change in the skills test route at least 30 days before the third party tester plans to change the route.

B. Every third party examiner shall notify the Department, within 10 days after leaving the employ of the third party tester, of his change in employment.

§ [46.2-341.14:8](#). Test administration.

A. Skills tests shall be conducted strictly in accordance with the provisions of this article and with current test instructions provided from time to time by the Department. Such instructions will include test forms and directions for completing such forms.

B. Skills tests shall be conducted:

1. On test routes that are located at least in part in Virginia and have been approved by the Department;

2. In a vehicle that is representative of the class and type of vehicle for which the commercial driver's license applicant seeks to be licensed and for which the third party tester and third party examiner are certified to test; and

3. In vehicles that are inspected, licensed, and insured, as required by law.

C. All third party testers shall submit a skills test schedule of commercial driver's license skills testing appointments to the Department no later than two business days prior to each test.

D. All third party testers shall notify the Department through secure electronic means when a driver applicant passes skills tests.

§ [46.2-341.14:9](#). The skills test certificate.

A. The Department will accept a skills test certificate issued in accordance with this section as satisfaction of the skills test component of the commercial driver's license examination.

B. Skills test certificates may be issued only to drivers who are employees of the third party tester who issues the certificate, except as otherwise provided herein. In the case of school boards certified as third party testers, certificates may be issued to employees and to other drivers who have been trained by the school board in accordance with the Virginia School Bus Driver Training Curriculum Guide.

C. Skills test certificates may be issued only to drivers who have passed the skills test conducted in accordance with this chapter and the instructions issued by the Department.

D. A skills test certificate will be accepted by the Department only if it is:

- 1. Issued by a third party tester certified by the Department in accordance with this article;*
- 2. In a format prescribed by the Department, completed in its entirety, without alteration;*
- 3. Submitted to the Department within 60 days of the date of the skills test; and*
- 4. Signed by the third party examiner who conducted the skills test.*

§ [46.2-341.14:10](#). Waiver of requirement that third party tester applicant employ 75 drivers.

A. Any applicant for certification as third party tester may submit with his application a request for a waiver of the requirement that the third party tester employ at least 75 drivers within the 12-month period preceding the application.

Such request shall include the following:

- 1. A statement of need. This statement should explain why the applicant should be certified as a third party tester. The statement should also include reasons why the testing facilities or programs offered by the Department will not meet the applicant's business requirements.*
- 2. An estimate of the number of employees per year who will require commercial driver's license skills testing after April 1, 1992. If the waiver request is filed prior to April 1, 1992, the request should also include an estimate of the number of employees who will require skills testing prior to that date.*

B. The Department will review the applicant's waiver request and will evaluate the Department's testing and third party monitoring resources. The Department will decide whether to grant the waiver request after balancing the stated needs of the applicant and the available resources of the Department. The Department will notify the applicant in writing of its decision.

§ [46.2-341.15](#). Commercial driver's license and commercial driver's instruction permit document.

A. The commercial driver's license issued by the Department shall be identified as a Virginia commercial driver's license and shall include at least the following:

- 1. Full name, a Virginia address, and signature of the licensee;*
- 2. A photograph of the licensee;*
- 3. A physical description of the licensee, including sex and height;*
- 4. The licensee's date of birth and license number that shall be assigned by the Department to the licensee and shall not be the same as the licensee's Social Security number;*
- 5. A designation of the class and type of commercial motor vehicle or vehicles which the licensee is authorized to drive, together with any restrictions; and*
- 6. The date of license issuance and expiration.*

B. The commercial driver's instruction permit shall be identified as such but shall in all other respects conform to subsection A of this section. *A commercial driver's instruction permit shall also contain a statement that the permit is invalid unless accompanied by the underlying driver's license.*

§ [46.2-341.16](#). Vehicle classifications, restrictions, and endorsements.

A. A commercial driver's license *or commercial driver's instruction permit* shall authorize the licensee *or permit holder* to operate only the classes and types of commercial motor vehicles designated thereon. The classes of commercial motor vehicles for which such license may be issued are:

1. Class A-Combination heavy vehicle. - Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds, provided the gross vehicle weight rating of the vehicles being towed is in excess of 10,000 pounds;
2. Class B-Heavy straight vehicle or other combination. - Any single motor vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating that is not in excess of 10,000 pounds; and
3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either (i) designed to transport ~~sixteen~~ 16 or more passengers including the driver or (ii) is used in the transportation of hazardous materials.

B. Commercial driver's licenses shall be issued with endorsements ~~and restrictions~~ authorizing the driver to operate ~~or restricting the driver to~~ the types of vehicles identified as follows:

1. Type T-Vehicles with double or triple trailers;
2. Type P-Vehicles carrying passengers;
3. Type N-Vehicles with cargo tanks;
4. Type H-Vehicles required to be placarded for hazardous materials;
5. ~~Type K-Vehicles not equipped with air brakes; and~~
6. ~~Type S-School buses carrying 16 or more passengers, including the driver;~~
6. *Type X-combination of tank vehicle and hazardous materials endorsements for commercial driver's licenses issued on or after July 1, 2014; and*
7. *At the discretion of the Department, any additional codes for groupings of endorsements with an explanation of such code appearing on the front or back of the license.*

C. Commercial driver's licenses shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. *L for no air brake equipped commercial motor vehicles for licenses issued on or after July 1, 2014;*
2. *Z for no full air brake equipped commercial motor vehicles;*
3. *E for no manual transmission equipped commercial motor vehicles for commercial driver's licenses issued on or after July 1, 2014;*

4. *O* for no tractor-trailer commercial motor vehicles;
5. *M* for no class A passenger vehicles;
6. *N* for no class A and B passenger vehicles;
7. *K* for vehicles not equipped with air brakes for commercial driver's licenses issued before July 1, 2014;
8. *K* for intrastate only for commercial driver's licenses issued on or after July 1, 2014;
9. *V* for medical variance; and
10. At the discretion of the Department, any additional codes for groupings of restrictions with an explanation of such code appearing on the front or back of the license.

D. Commercial driver's instruction permits shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type P-Vehicles carrying passengers as provided in § [46.2-341.10](#);
2. Type N-Vehicles with cargo tanks as provided in § [46.2-341.10](#); and
3. Type S-School buses carrying 16 or more passengers, including the driver as provided in § [46.2-341.10](#).

E. Commercial driver's instruction permits shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. *P* for no passengers in commercial motor vehicles bus;
2. *X* for no cargo in commercial motor vehicles tank vehicle;
3. *L* for no air brake equipped commercial motor vehicles for commercial driver's instruction permits issued on or after July 1, 2014;
4. *M* for no class A passenger vehicles;
5. *N* for no class A and B passenger vehicles;
6. *K* for vehicles not equipped with air brakes for commercial driver's instruction permits issued before July 1, 2014;
7. *K* for intrastate only for commercial driver's instruction permits issued on or after July 1, 2014;
8. *V* for medical variance; and
9. Any additional jurisdictional restrictions that apply to the commercial driver's instruction permit.

~~€.~~F. Persons authorized to drive Class A vehicles are also authorized to drive Classes B and C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

~~D.~~ G. Persons authorized to drive Class B vehicles are also authorized to drive Class C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

~~E.~~ H. Any licensee who seeks to add a classification or endorsement to his commercial driver's license must submit the application forms, certifications and other updated information required by the Department and shall take and successfully complete the tests required for such classification or endorsement.

~~F.~~ I. If any endorsement to a commercial driver's license is canceled by the Department and the licensee does not appear in person at the Department to have such endorsement removed from the license, then the Department may cancel the commercial driver's license of the licensee.

§ [46.2-341.20](#). Disqualification for multiple serious traffic violations.

A. For the purposes of this section, the following offenses, if committed in a commercial motor vehicle, are serious traffic violations:

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;
2. Reckless driving;
3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;
4. Improper or erratic traffic lane change;
5. Following the vehicle ahead too closely;
6. Driving a commercial motor vehicle without obtaining a commercial driver's license;
7. Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession;
8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported; and
9. A violation of § [46.2-1078.1](#) ~~or a substantially similar law of any other jurisdiction~~ *a state law, including §§ [46.2-341.20:5](#) and [46.2-919.1](#) or a local ordinance relating to motor vehicle traffic control prohibiting texting while driving.*

For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be considered traffic violations.

B. Beginning September 30, 2005, the following offenses shall be treated as serious traffic violations if committed while operating a noncommercial motor vehicle, but only if (i) the person convicted of the offense was, at the time of the offense, the holder of a commercial driver's license; (ii) the offense was committed on or after September 30, 2005; and (iii) the conviction, by itself or in conjunction with other convictions that satisfy the requirements of this section, resulted in the revocation, cancellation, or suspension of such person's driver's license or privilege to drive.

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

2. Reckless driving;
3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;
4. Improper or erratic traffic lane change; or
5. Following the vehicle ahead too closely.

C. The Department shall disqualify for the following periods of time, any person whose record as maintained by the Department shows that he has committed, within any three-year period, the requisite number of serious traffic violations:

1. A 60-day disqualification period for any person convicted of two serious traffic violations; or
2. A 120-day disqualification period for any person convicted of three serious traffic violations.

D. Any disqualification period imposed pursuant to this section shall run consecutively, and not concurrently, with any other disqualification period imposed hereunder.

§ [46.2-341.20:4](#). Disqualification of driver convicted of fraud related to the testing and issuance of a commercial driver's instruction permit or commercial driver's license.

A person who has been convicted of fraud pursuant to § [46.2-348](#) related to the issuance of a commercial driver's instruction permit or commercial driver's license shall be disqualified for a period of one year. The application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained commercial driver's instruction permit or commercial driver's license must also, at a minimum, be disqualified. Any disqualification must be recorded in the person's driving record. The person may not reapply for a new commercial driver's license for at least one year.

If a Department receives credible information that a commercial driver's instruction permit holder or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the issuance of his commercial driver's instruction permit or commercial driver's license, the Department shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving notification from the Department that re-testing is necessary, the affected commercial driver's instruction permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the commercial driver's instruction permit holder or commercial driver's license holder fails to make an appointment within 30 days, the Department shall disqualify his commercial driver's instruction permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the Department shall disqualify his commercial driver's instruction permit or commercial driver's license. Once a commercial driver's instruction permit holder's or commercial driver's license holder's commercial driver's instruction permit or commercial driver's license has been disqualified, he must reapply for a commercial driver's instruction permit or commercial driver's license under Department procedures applicable to all commercial driver's instruction permit and commercial driver's license applicants.

§ [46.2-341.20:5](#). Prohibition on texting; penalties.

A. No person driving a commercial motor vehicle shall text while driving such vehicle. A driver who violates this section is subject to a civil penalty not to exceed \$2,750. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund.

B. Notwithstanding the definition of commercial motor vehicle in § [46.2-341.4](#), this section shall apply to any driver who drives a vehicle designed or used to transport between nine and 15 passengers, including the driver, not for direct compensation.

C. The provisions of this section shall not apply to drivers who are texting when necessary to communicate with law-enforcement officials or other emergency services.

D. The following words and phrases when used in this section only shall have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"Driving" means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely remain stationary.

"Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a website, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication. "Texting" does not include inputting, selecting, or reading information on a global positioning system or navigation system; pressing a single button to initiate or terminate a voice communication using a telephone; or using a device capable of performing multiple functions for a purpose that is not otherwise prohibited in this section.

§ [46.2-348](#). Fraud or false statements in applications for license; penalties.

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud ~~in~~ during the driver's license examination or in his application shall be guilty of a Class 2 misdemeanor. However, where the license is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of residency under § [9.1-903](#), a violation of this section shall be punishable as a Class 4 felony.

§ [46.2-1076](#). Lettering on certain vehicles.

A. No person shall drive, cause to be driven, or permit the driving of a "for hire" motor vehicle on the highways in the Commonwealth unless the legal name or trade name ~~and address of the owner of~~ motor carrier as defined in Chapter 20 (§ [46.2-2000](#) et seq.) or Chapter 21 (§ [46.2-2100](#) et seq.) operating the vehicle is plainly displayed on both sides of the vehicle. The letters and numerals in the display shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of fifty feet while the vehicle is not in motion. The display shall be kept legible and may take the form of a removable device which meets the identification and legibility requirements of this section.

B. This section shall not apply to any motor vehicle:

1. Having a registered gross weight of less than 10,000 pounds;
2. Which is used exclusively for wedding, ambulance, or funeral services; or
3. Which is rented without chauffeur and operated under a valid lease which gives the lessee exclusive control of the vehicle.

~~C. Notwithstanding the exemptions contained in subsection B of this section, the requirements of subsection A of this section shall also apply to all motor vehicles leased to common or contract carriers of persons or property which are required to operate under certificates or permits issued by the State Corporation Commission or the Interstate Commerce Commission.~~

~~D.~~ Subsection A of this section shall also apply to tow trucks used in providing service to the public for hire. For the purposes of this section, "tow truck" means any motor vehicle which is constructed and used primarily for towing, lifting, or otherwise moving disabled vehicles.

~~E. D.~~ No person shall drive on the highways in the Commonwealth a pickup or panel truck, tractor truck, trailer, or semitrailer bearing any name other than that of the vehicle's owner or lessee. However, the provisions of this subsection shall not apply to advertising material for another, displayed pursuant to a valid contract.

§ [46.2-2001.1](#). License, permit, or certificate required.

A. It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange by contract, agreement, or arrangement to transport passengers for compensation as a broker, motor carrier or excursion train operator without first obtaining a license, permit, or certificate, unless otherwise exempted, as provided in this chapter.

B. Beginning July 1, 2014, any person making application for a license, permit, or certificate pursuant to this chapter who has violated § [46.2-2001.1](#), either as a result of a conviction or as a result of an imposition of a civil penalty, shall be denied such license, permit, or certificate for a period of 12 months from the date the final disposition of the conviction or imposition of the civil penalty has been rendered.

The Department of Motor Vehicles shall require applicants for a license, permit, or certificate to report any conviction or imposition of civil penalties for violations of § [46.2-2001.1](#).

§ [46.2-2001.3](#). Application; notice requirements.

A. Applications for a license, permit, certificate, or identification marker *or renewal of a license, permit, certificate, or identification marker* under this chapter shall be made to the Department and contain such information and exhibits as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in § [46.2-2011.24](#) as grounds for denying licenses, permits, and certificates, and other pertinent matters requisite for the safeguarding of the public interest.

B. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a notice of such application, on the form and in the manner prescribed by the Department, on every motor carrier holding the same type of certificate issued by the Department and operating or providing service within the area proposed to be served by the applicant.

C. For any application for original certificate or license issued under this chapter, or any request for a transfer of such certificate or license, the Department shall publish a notice of such application on the Department's public website in the form and in the manner prescribed by the Department.

D. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate of public convenience and necessity, shall cause a publication of a summary of the application to be made in a newspaper having a general circulation in the proposed area to be served or area where the primary business office is located within such time as the Department may prescribe.

§ [46.2-2005](#). Action on applications; hearings on denials and protests.

A. The Department may act upon any application required under this chapter for a certificate of public convenience and necessity without a hearing, unless such application is protested by any aggrieved party, except that no protest shall be heard in such cases whereby the applicant has received a notice of intent to award a contract under the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.) for irregular route common carrier service to or from a public-use airport located in the City of Norfolk or the County of Henrico. Aggrieved parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's interest and how the party could be aggrieved if the application were granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) a statement of the specific relief sought; (iv) the case number assigned to the application; and (v) a certification that a copy of the protest was sent to the applicant.

B. The Department may act upon any application required under this chapter for a license or certificate of fitness without a hearing, unless such application is protested by any party based upon fitness allegations. Parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's objections to the application being granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) the case number assigned to the application; and (iv) a certification that a copy of the protest was sent to the applicant. The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.

C. Any applicant denied without a hearing an original license, *permit*, or certificate under subsection A or B of *this section or subsection B of § [46.2-2001.1](#)*, or any request for a transfer of such a license or certificate, shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within 30 days of denial.

§ [46.2-2011.9](#). Bond and letter of credit requirements.

A. Every applicant for an original, ~~second-year renewal, and third-year renewal of a~~ certificate under this chapter shall obtain and file with the Department, *along with the application*, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000, *which shall remain in effect for the first three years of licensure*. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

B. Every applicant for an original ~~and subsequent renewal~~ license pursuant to this chapter shall obtain and file with the Department, *along with the application*, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.

C. If a person suffers any of the following: (i) loss or damage in connection with the transportation service by reason of fraud practiced on him or fraudulent representation made to him by a licensee or certificate holder or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a licensee or certificate holder or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after the effective date of this act, that person shall have a claim against the licensee or certificate holder's bond or letter of credit, and may recover from such bond or letter of credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the licensee or certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

D. The licensee or certificate holder's surety shall notify the Department when a claim is made against a licensee or certificate holder's bond, when a claim is paid and when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

E. The surety on any bond filed by a licensee or certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of ~~sixty~~ 60 days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue before the expiration of the ~~sixty-day~~ 60-day period.

§ [46.2-2011.11](#). Established place of business.

A. No license or certificate shall be issued to any applicant that does not have an established place of business, owned or leased by the applicant, where a substantial portion of the activity of the motor carrier or broker business will be routinely conducted and that:

1. Satisfies all applicable local zoning regulations;
2. Houses all records that the motor carrier or broker is required to maintain by this chapter or by regulations promulgated pursuant to this chapter; and
3. Is equipped with a working telephone listed or advertised in the name of the motor carrier or broker.

B. Every licensee and certificate holder shall maintain an established place of business in accordance with subsection A of this section and keep on file a physical address with the Department. Every licensee and certificate holder shall inform the Department *by certified letter or other manner prescribed by the Department* of any changes to the motor carrier or broker's mailing address, physical location, telephone number, and legal status, legal name of company, or trade name of company within 30 days of such change.

C. Any licensee or certificate holder that relocates his established place of business shall confirm to the Department that the new established place of business conforms to the requirements of subsection A.

§ [46.2-2011.23](#). Violations; civil penalties.

The Department may impose a civil penalty not exceeding \$1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this Code regulating the operation of motor vehicles;
2. Failed to make any report required in this chapter;
3. Failed to pay any fee or tax properly assessed against him; or
4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate, permit, or license.

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any license, permit, certificate, registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

For the purposes of this section, each separate violation shall be subject to the civil penalty.

§ [46.2-2011.24](#). Grounds for denying, suspending, or revoking licenses, permits, or certificates.

A license, permit, or certificate issued pursuant to this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for license, certificate, permit, identification marker, or vehicle registration;
2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term, condition, or restriction of a license, permit, or certificate;
3. Failure to comply with zoning or other land use regulations, ordinances, or statutes;
4. Use of deceptive business acts or practices;
5. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a license, certificate, permit, identification marker, or vehicle registration is held or sought;
6. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a license, permit, or certificate is held or sought or any consumer-related fraud;
7. Having been convicted of any criminal act involving the business for which a license, permit, or certificate is held or sought;
8. Failure to comply with § [46.2-2056](#) or any regulation promulgated pursuant thereto;
9. Improper leasing, renting, lending, or otherwise allowing the improper use of a license, certificate, permit, identification marker, or vehicle registration;
10. Having been convicted of a felony;
11. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;
12. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the Department;
13. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;
14. Knowingly and willfully filing any false report, account, record, or memorandum;
15. Failure to meet *or maintain* application certifications or requirements of public convenience and necessity, character, fitness, and financial responsibility pursuant to this chapter;
16. Willfully altering or changing the appearance or wording of any license, permit, certificate, identification marker, license plate, or vehicle registration;

17. Failure to provide services in accordance with license, permit, or certificate terms, limitations, conditions, or requirements;

18. Failure to maintain and keep on file with the Department motor carrier liability insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

19. Failure to comply with the Workers' Compensation Act of Title 65.2;

20. Failure to properly register a motor vehicle under this title;

21. Failure to comply with any federal motor carrier statute, rule, or regulation;

22. Failure to comply with the requirements of the Americans with Disabilities Act; or

23. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate or permit for a period of greater than three months.

§ [46.2-2099.19](#). Broker's license not substitute for other certificates or permits required.

No person who holds a broker's license under this article shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who is not the lawful holder of an effective certificate or permit issued as provided in this chapter *or when such certificate or permit does not authorize the carrier to perform the service being acquired.*

A person holding a broker's license shall obtain and maintain a copy of the certificate of public convenience and necessity issued to those carriers through which the broker arranges transportation services.

§ [46.2-2108.4](#). Application; notice requirements.

A. Applications for a license, permit, or certificate of fitness *or renewal of a license, permit, or certificate of fitness* under this chapter shall be made to the Department and contain such information as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in §§ [46.2-2133](#) and [46.2-2134](#) as grounds for denying licenses, permits, and certificates.

B. The applicant for a certificate of fitness issued under this chapter shall cause a notice of such application, on the form and in the manner prescribed by the Department, to be served on every affected person who has requested notification.

§ [46.2-2122](#). Bond and letter of credit requirements of applicants for license and certificate.

A. Every applicant for an original, ~~second-year renewal, third-year renewal, fourth-year renewal, and fifth-year renewal of a~~ certificate of fitness under this chapter shall obtain and file with the Department, *along with the application*, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$50,000, *which shall remain in effect for the first five years of licensure*. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate of fitness during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

B. Every applicant for an original ~~and subsequent renewal~~ license pursuant to Article 5 ~~of this chapter~~ (§ [46.2-2174](#) *et seq.*) shall obtain and file with the Department, *along with the application*, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.

C. If a person suffers any of the following: (i) loss or damage in connection with the transportation service by reason of fraud practiced on him or fraudulent representation made to him by a licensee or certificate holder or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a licensee or certificate holder or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after the effective date of this act, that person shall have a claim against the licensee or certificate holder's bond or letter of credit, and may recover from such bond or letter of credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the licensee or certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

D. The licensee or certificate holder's surety shall notify the Department when a claim is made against a licensee or certificate holder's bond, when a claim is paid and/or when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

E. The surety on any bond filed by a licensee or certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of ~~sixty~~ 60 days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release, or discharge the surety from any liability already accrued or that shall accrue before the expiration of the ~~sixty-day~~ 60-day period.

§ [46.2-2132](#). Violations; civil penalties.

The Department may impose a civil penalty not exceeding \$1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this title regulating the operation of motor vehicles;
2. Failed to make any report required in this chapter;
3. Failed to pay any fee or tax properly assessed against him; or
4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate, permit, or license.

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any license, permit, certificate of fitness, registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

For the purposes of this section, each separate violation shall be subject to the civil penalty.

§ [46.2-2133](#). Grounds for denying, suspending, or revoking licenses or certificates.

A license or certificate of fitness issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for license or certificate of public convenience and necessity, identification marker, or vehicle registration;
2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term or condition of any license or certificate of fitness;
3. Use of deceptive business acts or practices;
4. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a license, certificate of fitness, identification marker, or vehicle registration is held or sought;
5. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a license or certificate of fitness is held or sought or any consumer-related fraud;
6. Having been convicted of any criminal act involving the business for which a license or certificate of fitness is held or sought;
7. Improper leasing, renting, lending, or otherwise allowing the improper use of a license, certificate of fitness, identification marker, or vehicle registration;
8. Having been convicted of a felony;
9. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;
10. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the Department;
11. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;
12. Knowingly and willfully filing any false report, account, record, or memorandum;
13. Failure to meet *or maintain* application certifications or requirements of character, fitness, and financial responsibility pursuant to this chapter;
14. Willfully altering or changing the appearance or wording of any license, certificate, identification marker, license plate, or vehicle registration;
15. Failure to provide services in accordance with license or certificate of fitness terms, limitations, conditions, or requirements;
16. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

17. Failure to comply with the Workers' Compensation Act of Title 65.2;
 18. Failure to properly register a motor vehicle under this title;
 19. Failure to comply with any federal motor carrier statute, rule, or regulation; or
 20. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate or permit for a period of greater than three months.
- § [46.2-2176](#). Broker's license not substitute for other certificates or permits.

No person who holds a broker's license under this article shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who is not the lawful holder of an effective certificate or permit issued as provided in this chapter *or when such certificate or permit does not authorize the carrier to perform the service being acquired.*

DMV fees. Allows the DMV Commissioner to postpone expiration of vehicle registration if DMV is unable to operate for reasons beyond its control and the postponement is authorized by the Governor.

CHAPTER 337

An Act to amend and reenact § [46.2-646](#) of the Code of Virginia, relating to expiration and renewal of vehicle registrations.

[H 1485]

Approved March 14, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-646](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-646](#). Expiration and renewal of registration.

A. Every registration under this title, unless otherwise provided, shall expire on the last day of the twelfth month next succeeding the date of registration. Every registration, unless otherwise provided, shall be renewed annually on application by the owner and by payment of the fees required by law, the renewal to take effect on the first day of the month succeeding the date of expiration. *Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring registration if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, and (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.*

B. All motor vehicles, trailers, and semitrailers registered in the Commonwealth shall, at the discretion of the Commissioner, be placed in a system of registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve months of the year. All such motor vehicles, trailers, and semitrailers, unless otherwise provided, shall be registered for a period of twelve months. The registration shall be extended, at the discretion of the Commissioner, on receipt of appropriate prorated fees, as required by law, for a period of not less than one month nor more than eleven months as is necessary to distribute the registrations as equally as practicable on a monthly basis. The Commissioner shall, on request, assign to any owner or owners of two or more motor vehicles, trailers, or semitrailers the same registration period. The expiration date shall be the last day of the twelfth month or the last day of the designated month. Except for motor vehicles, trailers, and semitrailers registered for more than one year under subsection C of this section, every registration shall be renewed annually on application by the owner and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

C. The Commissioner may offer, at his discretion, an optional multi-year registration for all motor vehicles, trailers, and semitrailers except for (i) those registered under the International Registration Plan and (ii) those registered as uninsured motor vehicles. When this option is offered and chosen by the registrant, all annual and twelve-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

Provisional driver's licenses. Provides that the holder of a provisional driver's license under age 18 is not authorized to operate a motor vehicle with more than one passenger who is less than 21 years old unless the driver is accompanied by a parent or person acting in loco parentis who is occupying a seat beside the driver. However, the bill does provide that, after the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers less than 21 years old if driving to or from a school-sponsored activity, or if a licensed driver who is at least 21 years old is sitting on the seat beside the driver, or if there is an emergency. This passenger limitation does not apply to members of the driver's family or household. This bill only applies to those with a provisional driver's license who turn 17 after July 1, 2013.

CHAPTER 397

An Act to amend and reenact § [46.2-334.01](#) of the Code of Virginia, relating to provisional driver's licenses.

[S 1165]

Approved March 14, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-334.01](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-334.01](#). Licenses issued to persons less than 19 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § [46.2-498](#), whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 of this title, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § [46.2-498](#). The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 of this title, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher learning where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher learning where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher learning where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) of this chapter or

(ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 of this title, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial.

4. In no event shall any person subject to the provisions of this section, be subject to the suspension or revocation provisions of subdivision 2 or 3 of this section for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 18 21 years old ~~for the first year after the license is issued nor more than three passengers who are less than 18 years old thereafter until the holder's eighteenth birthday~~, *unless the driver is accompanied by a parent or person acting in loco parentis provided that such person accompanying the driver is occupying the seat beside the driver and is lawfully permitted to operate a motor vehicle at the time. After the first year the provisional license is issued the holder may operate a motor vehicle with up to three passengers who are less than 21 years old when (i) the holder is driving to or from a school-sponsored activity, or (ii) a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency.* This passenger limitation, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, ~~members~~ "a member of the driver's family or household" means *any of the following: (i) (a) the driver's spouse, children, stepchildren, brothers, sisters, half brothers, half sisters, half-brothers, half-sisters, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (ii) (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (iii) (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.*

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from a school-sponsored activity; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer rescue squad personnel to emergency calls.

C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.

D. The provisional driver's license restrictions in subsections B, C, and C1 of this section shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in either subsection B, C, or C1 of this section shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in either subsection B, C, or C1, in addition to any other penalties which may be imposed pursuant to § [16.1-278.10](#), the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B, C, or C1 of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

2. That the provisions of this act shall apply only to the holder of a provisional driver's license who turns 17 years of age after July 1, 2013.

Provisional driver's license; restriction exceptions. Provides that the restriction on operating a motor vehicle between midnight and 4:00 a.m. for a minor who holds a provisional driver's license does not apply if the minor is driving to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization. Currently this exception only applies to a minor driving to or from a school-sponsored activity.

CHAPTER 579

An Act to amend and reenact § [46.2-334.01](#) of the Code of Virginia, relating to provisional driver's license; restriction exceptions.

[H 2033]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-334.01](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-334.01](#). Licenses issued to persons less than 19 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § [46.2-498](#), whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) ~~of this chapter~~ or (ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 ~~of this title~~, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § [46.2-498](#). The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) ~~of this chapter~~ or (ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 ~~of this title~~, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher learning where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher learning where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher learning where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ [46.2-489](#) et seq.) ~~of this chapter~~ or (ii) a violation of any provision of Article 12 (§ [46.2-1091](#) et seq.) or Article 13 (§ [46.2-1095](#) et seq.) of Chapter 10 ~~of this title~~, the Commissioner shall revoke such person's driver's license or privilege to operate a motor

vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section, be subject to the suspension or revocation provisions of subdivision 2 or 3 ~~of this section~~ for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 18 years old for the first year after the license is issued nor more than three passengers who are less than 18 years old thereafter until the holder's eighteenth birthday. This passenger limitation, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "members of the driver's family or household" means (i) the driver's spouse, children, stepchildren, brothers, sisters, ~~half brothers half-brothers, half sisters half-sisters~~, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (ii) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (iii) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from ~~a school sponsored~~ *an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization*; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer rescue squad personnel to emergency calls.

C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.

D. The provisional driver's license restrictions in subsections B, C, and C1 ~~of this section~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in either subsection B, C, or C1 ~~of this section~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in either subsection B, C, or C1, in addition to any other penalties ~~which~~ *that* may be imposed pursuant to § [16.1-278.10](#), the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B, C, or C1 ~~of this section~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

Felony DUI; penalty. Provides that any person convicted of a felony DUI offense (including DUI manslaughter and DUI maiming, by motor vehicle or watercraft) is guilty of a Class 6 felony for any subsequent DUI conviction, that punishment includes a mandatory minimum term of imprisonment of one year, and the person is subject to the same driver's license revocation provision as for a third or subsequent DUI conviction within 10 years, which means that the person can petition for reinstatement of his driver's license five years after the date of his last conviction. This bill is identical to [SB 1272](#).

CHAPTER 415

An Act to amend and reenact §§ [18.2-270](#), [18.2-271](#), and [46.2-391](#) of the Code of Virginia, relating to penalty for driving while intoxicated; subsequent offense; license revocation; penalty.

[H 1559]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-270](#), [18.2-271](#), and [46.2-391](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-270](#). Penalty for driving while intoxicated; subsequent offense; prior conviction.

A. Except as otherwise provided herein, any person violating any provision of § [18.2-266](#) shall be guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. If the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 10 days.

B. 1. Any person convicted of a second offense committed within less than five years after a prior offense under § [18.2-266](#) shall upon conviction of the second offense be punished by a mandatory minimum fine of \$500 and by confinement in jail for not less than one month nor more than one year. Twenty days of such confinement shall be a mandatory minimum sentence.

2. Any person convicted of a second offense committed within a period of five to 10 years of a prior offense under § [18.2-266](#) shall upon conviction of the second offense be punished by a mandatory minimum fine of \$500 and by confinement in jail for not less than one month. Ten days of such confinement shall be a mandatory minimum sentence.

3. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of \$500.

C. 1. Any person convicted of three offenses of § [18.2-266](#) committed within a 10-year period shall upon conviction of the third offense be guilty of a Class 6 felony. The sentence of any person convicted of three offenses of § [18.2-266](#) committed within a 10-year period shall include a mandatory minimum sentence of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a mandatory minimum sentence of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of \$1,000.

2. A person who has been convicted of § [18.2-36.1](#), [18.2-36.2](#), [18.2-51.4](#), [18.2-51.5](#), or a felony violation of § [18.2-266](#) shall upon conviction of a subsequent violation of § [18.2-266](#) be guilty of a Class 6 felony. The punishment of any person convicted of such a subsequent violation of § [18.2-266](#) shall include a mandatory minimum term of imprisonment of one year and a mandatory minimum fine of \$1,000.

3. The punishment of any person convicted of a fourth or subsequent offense of § [18.2-266](#) committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of \$1,000. Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years.

~~3-4.~~ The vehicle solely owned and operated by the accused during the commission of a felony violation of § [18.2-266](#) shall be subject to seizure and forfeiture. After an arrest for a felony violation of § [18.2-266](#), the Commonwealth may file an information in accordance with § [19.2-386.34](#).

D. In addition to the penalty otherwise authorized by this section or § [16.1-278.9](#), any person convicted of a violation of § [18.2-266](#) committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of \$500 and not more than \$1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.

E. For the purpose of determining the number of offenses committed by, and the punishment appropriate for, a person under this section, an adult conviction of any person, or finding of guilty in the case of a juvenile, under the following shall be considered a conviction of § [18.2-266](#): (i) the provisions of § [18.2-36.1](#) or the substantially similar laws of any other state or of the United States, (ii) the provisions of §§ [18.2-51.4](#), [18.2-266](#), former § [18.1-54](#) (formerly § [18-75](#)), the ordinance of any county, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § [18.2-51.4](#), or § [18.2-266](#), or (iii) the provisions of subsection A of § [46.2-341.24](#) or the substantially similar laws of any other state or of the United States.

F. Mandatory minimum punishments imposed pursuant to this section shall be cumulative, and mandatory minimum terms of confinement shall be served consecutively. However, in no case shall punishment imposed hereunder exceed the applicable statutory maximum Class 1 misdemeanor term of confinement or fine upon conviction of a first or second offense, or Class 6 felony term of confinement or fine upon conviction of a third or subsequent offense.

§ [18.2-271](#). Forfeiture of driver's license for driving while intoxicated.

A. Except as provided in § [18.2-271.1](#), the judgment of conviction if for a first offense under § [18.2-266](#) or for a similar offense under any county, city, or town ordinance, or for a first offense under subsection A of § [46.2-341.24](#), shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the Commonwealth for a period of one year from the date of such judgment. This suspension period shall be in addition to the suspension period provided under § [46.2-391.2](#).

B. If a person (i) is tried on a process alleging a second offense of violating § [18.2-266](#) or subsection A of § [46.2-341.24](#), or any substantially similar local ordinance, or law of any other jurisdiction, within ten years of a first offense for which the person was convicted, or found guilty in the case of a juvenile, under § [18.2-266](#) or subsection A of § [46.2-341.24](#) or any valid local ordinance or any law of any other jurisdiction substantially similar to § [18.2-266](#) or subsection A of § [46.2-341.24](#) and (ii) is convicted thereof, such conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the Commonwealth for a period of three years from the date of the judgment of conviction and such person shall have his license revoked as provided in subsection A of § [46.2-391](#). The court trying such case shall order the surrender of the person's driver's license, to be disposed of in accordance with § [46.2-398](#), and shall notify such person that his license has been revoked for a period of three years and that the penalty for violating that revocation is as set out in § [46.2-391](#). This suspension period shall be in addition to the suspension period

provided under § [46.2-391.2](#). Any period of license suspension or revocation imposed pursuant to this section, in any case, shall run consecutively with any period of suspension for failure to permit a blood or breath sample to be taken as required by §§ [18.2-268.1](#) through [18.2-268.12](#) or §§ [46.2-341.26:1](#) through [46.2-341.26:11](#) or any period of suspension for a previous violation of § [18.2-266](#), [18.2-266.1](#), or [46.2-341.24](#).

C. If a person (i) is tried on a process alleging (a) a *felony conviction* of § [18.2-266](#) or (b) a third or subsequent offense of violating § [18.2-266](#) or subsection A of § [46.2-341.24](#), or any substantially similar local ordinance, or law of any other jurisdiction, within ~~ten~~ 10 years of two other offenses for which the person was convicted, or found not innocent in the case of a juvenile, under § [18.2-266](#) or subsection A of § [46.2-341.24](#) or any valid local ordinance or any law of any other jurisdiction substantially similar to § [18.2-266](#) or subsection A of § [46.2-341.24](#) and (ii) is convicted thereof, such conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the Commonwealth and such person shall not be eligible for participation in a program pursuant to § [18.2-271.1](#) and shall, upon such conviction, have his license revoked as provided in subsection B of § [46.2-391](#). The court trying such case shall order the surrender of the person's driver's license, to be disposed of in accordance with § [46.2-398](#), and shall notify such person that his license has been revoked indefinitely and that the penalty for violating that revocation is as set out in § [46.2-391](#).

D. Notwithstanding any other provision of this section, the period of license revocation or suspension shall not begin to expire until the person convicted has surrendered his license to the court or to the Department of Motor Vehicles.

E. The provisions of this section shall not apply to, and shall have no effect upon, any disqualification from operating a commercial motor vehicle imposed under the provisions of the Commercial Driver's License Act (§ [46.2-341.1](#) et seq.).

§ [46.2-391](#). Revocation of license for multiple convictions of driving while intoxicated; exception; petition for restoration of privilege.

A. The Commissioner shall forthwith revoke and not thereafter reissue for three years the driver's license of any person on receiving a record of the conviction of any person who (i) is adjudged to be a second offender in violation of the provisions of subsection A of § [46.2-341.24](#) (driving a commercial motor vehicle under the influence of drugs or intoxicants), or § [18.2-266](#) (driving under the influence of drugs or intoxicants), if the subsequent violation occurred within 10 years of the prior violation, or (ii) is convicted of any two or more offenses of § [18.2-272](#) (driving while the driver's license has been forfeited for a conviction under § [18.2-266](#)) if the second or subsequent violation occurred within 10 years of the prior offense. However, if the Commissioner has received a copy of a court order authorizing issuance of a restricted license as provided in subsection E of § [18.2-271.1](#), he shall proceed as provided in the order of the court. For the purposes of this subsection, an offense in violation of a valid local ordinance, or law of any other jurisdiction, which ordinance or law is substantially similar to any provision of Virginia law herein shall be considered an offense in violation of such provision of Virginia law. Additionally, in no event shall the Commissioner reinstate the driver's license of any person convicted of a violation of § [18.2-266](#), or of a substantially similar valid local ordinance or law of another jurisdiction, until receipt of notification that such person has successfully completed an alcohol safety action program if such person was required by court order to do so unless the requirement for completion of the program has been waived by the court for good cause shown. A conviction includes a finding of not innocent in the case of a juvenile.

B. The Commissioner shall forthwith revoke and not thereafter reissue the driver's license of any person after receiving a record of the conviction of any person (i) convicted of a violation of § [18.2-36.1](#) or § [18.2-51.4](#) or a *felony violation* of § [18.2-266](#) or (ii) convicted of three offenses arising out of separate incidents or occurrences within a period of 10 years in violation of the provisions of subsection A of § [46.2-341.24](#) or § [18.2-266](#), or a substantially similar ordinance or law of any other jurisdiction, or any combination of three such offenses. A conviction includes a finding of not innocent in the case of a juvenile.

C. Any person who has had his driver's license revoked in accordance with subsection B of this section may petition the circuit court of his residence, or, if a nonresident of Virginia, any circuit court:

1. For restoration of his privilege to drive a motor vehicle in the Commonwealth after the expiration of five years from the date of his last conviction. On such petition, and for good cause shown, the court may, in its discretion, restore to the person the privilege to drive a motor vehicle in the Commonwealth on condition that such person install an ignition interlock system in accordance with § [18.2-270.1](#) on all motor vehicles, as defined in § [46.2-100](#), owned by or registered to him, in whole or in part, for a period of at least six months, and upon whatever other conditions the court may prescribe, subject to the provisions of law relating to issuance of driver's licenses, if the court is satisfied from the evidence presented that: (i) at the time of his previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and (iii) the defendant does not constitute a threat to the safety and welfare of himself or others with regard to the driving of a motor vehicle. However, prior to acting on the petition, the court shall order that an evaluation of the person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be submitted to the court. The court may, in lieu of restoring the person's privilege to drive, authorize the issuance of a restricted license for a period not to exceed five years in accordance with the provisions of § [18.2-270.1](#) and subsection E of § [18.2-271.1](#). The court shall notify the Virginia Alcohol Safety Action Program which shall during the term of the restricted license monitor the person's compliance with the terms of the restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court may then modify the restrictions or revoke the license.

2. For a restricted license to authorize such person to drive a motor vehicle in the Commonwealth in the course of his employment and to drive a motor vehicle to and from his home to the place of his employment after the expiration of three years from the date of his last conviction. The court may order that a restricted license for such purposes be issued in accordance with the procedures of subsection E of § [18.2-271.1](#), if the court is satisfied from the evidence presented that (i) at the time of the previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically dependent on the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the safety and welfare of himself and others with regard to the driving of a motor vehicle. The court shall prohibit the person to whom a restricted license is issued from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system during all or any part of the term for which the restricted license is issued, in accordance with the provisions set forth in § [18.2-270.1](#). However, prior to acting on the petition, the court shall order that an evaluation of the person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be submitted to the court. The Virginia Alcohol Safety Action Program shall during the term of the restricted license monitor the person's compliance with the terms of the restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court may then modify the restrictions or revoke the license.

The ignition interlock system installation requirement under subdivisions 1 and 2 of this subsection need only be satisfied once as to any single revocation under subsection B of this section for any person seeking restoration under subdivision 1 following the granting of a restricted license under subdivision 1 or 2.

D. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i) while his license is revoked pursuant to subsection A or B or (ii) in violation of the terms of a restricted license issued pursuant to subsection C shall, provided such revocation was based on at least one conviction for an offense committed after July 1, 1999, be punished as follows:

1. If such driving does not of itself endanger the life, limb, or property of another, such person shall be guilty of a Class 1 misdemeanor punishable by a mandatory minimum term of confinement in jail of 10 days except in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

2. a. If such driving (i) of itself endangers the life, limb, or property of another or (ii) takes place while such person is in violation of §§ [18.2-36.1](#), [18.2-51.4](#), [18.2-266](#), subsection A of § [46.2-341.24](#), or a substantially similar law or ordinance of another jurisdiction, irrespective of whether the driving of itself endangers the life, limb or property of another and the person has been previously convicted of a violation of §§ [18.2-36.1](#), [18.2-51.4](#), [18.2-266](#), subsection A of § [46.2-341.24](#), or a substantially similar local ordinance, or law of another jurisdiction, such person shall be guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than five years, one year of which shall be a mandatory minimum term of confinement or, in the discretion of the jury or the court trying the case without a jury, by mandatory minimum confinement in jail for a period of 12 months and no portion of such sentence shall be suspended or run concurrently with any other sentence.

b. However, in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

3. If any such offense of driving is a second or subsequent violation, such person shall be punished as provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers the life, limb, or property of another.

E. Notwithstanding the provisions of subdivisions 2 and 3 of subsection D, following conviction and prior to imposition of sentence with the consent of the defendant, the court may order the defendant to be evaluated for and to participate in the Boot Camp Incarceration Program pursuant to § [19.2-316.1](#), or the Detention Center Incarceration Program pursuant to § [19.2-316.2](#), or the Diversion Center Incarceration Program pursuant to § [19.2-316.3](#).

F. Any period of driver's license revocation imposed pursuant to this section shall not begin to expire until the person convicted has surrendered his license to the court or to the Department of Motor Vehicles.

G. Nothing in this section shall prohibit a person from operating any farm tractor on the highways when it is necessary to move the tractor from one tract of land used for agricultural purposes to another such tract of land when the distance between the tracts is no more than five miles.

H. Any person who operates a motor vehicle or any self-propelled machinery or equipment (i) while his license is revoked pursuant to subsection A or B, or (ii) in violation of the terms of a restricted license issued pursuant to subsection C, where the provisions of subsection D do not apply, shall be guilty of a violation of § [18.2-272](#).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

Alcoholic beverage control; proof of legal age required. Provides that it is a Class 3 misdemeanor to sell alcoholic beverages to an individual under 21 years of age if the seller does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. The bill excludes student identification cards as bona fide evidence of legal age.

CHAPTER 562

An Act to amend and reenact § [4.1-304](#) of the Code of Virginia, relating to alcoholic beverage control; proof of legal age required; penalty.

[H 1720]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [4.1-304](#) of the Code of Virginia is amended and reenacted as follows:

§ [4.1-304](#). Persons to whom alcoholic beverages may not be sold; proof of legal age; penalty.

A. No person shall, except pursuant to subdivisions 1 through 5 of § [4.1-200](#), sell any alcoholic beverages to any ~~person~~ individual when at the time of such sale he knows or has reason to believe that the ~~person~~ individual to whom the sale is made is (i) less than ~~twenty-one~~ 21 years of age, (ii) interdicted, or (iii) intoxicated. *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

B. *Any person who sells, except pursuant to subdivisions 1 through 5 of § [4.1-200](#), any alcoholic beverage to an individual who is less than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this ~~section shall be~~ subsection is guilty of a Class ~~1~~ 3 misdemeanor. Notwithstanding the provisions of § [4.1-202](#), the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.*

C. *No person shall be convicted of both subsections A and B for the same sale.*

HOT Lanes. Allows state and local law-enforcement vehicles, firefighting trucks, ambulances, and rescue squad vehicles to enter HOT lanes by crossing a barrier or buffer and not be guilty of reckless driving. This bill contains an emergency clause and is identical to [SB 1204](#).

CHAPTER 85

An Act to amend and reenact § [33.1-56.3](#) of the Code of Virginia, relating to law-enforcement vehicles, firefighting trucks, ambulances, and rescue squad vehicles entering HOT lanes by crossing barriers.

[H 2052]

Approved March 5, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [33.1-56.3](#) of the Code of Virginia is amended and reenacted as follows:

§ [33.1-56.3](#). HOT lanes enforcement.

Any person operating a motor vehicle on designated HOT lanes shall make arrangements with the HOT lanes operator for payment of the required toll prior to entering such HOT lanes. The driver of a vehicle who enters the HOT lanes in an unauthorized vehicle, in violation of the conditions for use of such HOT lanes established pursuant to § [33.1-56.2](#), without payment of the required toll, or without having made arrangements with the HOT lanes operator for payment of the required toll, shall have committed a violation of this section, which may be enforced in the following manner:

A. On a form prescribed by the Supreme Court, a summons for civil violation of this section may be executed by a law-enforcement officer, when such violation is observed by such officer. The form shall contain the option for the driver of the vehicle to prepay all penalties, unpaid toll, administrative fees, and costs.

B. 1. A HOT lanes operator shall install and operate, or cause to be installed or operated, a photo-enforcement system at locations where tolls are collected for the use of such HOT lanes.

2. A summons for civil violation of this section may be executed pursuant to this subsection, when such violation is evidenced by information obtained from a photo-enforcement system as defined in this article. A certificate, sworn to or affirmed by a technician employed or authorized by the HOT lanes operator, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this subsection. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides the HOT lanes operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ [2.2-3800](#) et seq.) or the Insurance Information and Privacy Protection Act (§ [38.2-600](#) et seq.).

3. On a form prescribed by the Supreme Court, a summons issued under this subsection may be executed pursuant to § [19.2-76.2](#). Such form shall contain the option for the driver or registered owner to prepay all penalties, unpaid toll, administrative fees, and costs. HOT lanes operator personnel or their agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. Notwithstanding the provisions of § [19.2-76](#), a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the registered owner has named and provided a valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to this subsection,

such named operator of the vehicle. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § [19.2-76.3](#).

4. The registered owner of such vehicle shall be given reasonable notice by way of a summons as provided in this subsection that his vehicle had been used in violation of this section, and such owner shall be given notice of the time and place of the hearing and notice of the civil penalty and costs for such offense.

Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the violation and providing the legal name and address of the driver of the vehicle at the time of the violation, a summons will also be issued to the alleged driver of the vehicle at the time of the offense. The affidavit shall constitute prima facie evidence that the person named in the affidavit was driving the vehicle at all the relevant times relating to the matter named in the affidavit.

If the registered owner of the vehicle produces a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the registered owner of the vehicle.

C. 1. The HOT lanes operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or invoice issued by a HOT lanes operator. If paid within 30 days of notification, the administrative fee shall not exceed \$25.

2. Upon a finding by a court of competent jurisdiction that the driver of the vehicle observed by a law-enforcement officer under subsection A, or the vehicle described in the summons for civil violation issued pursuant to evidence obtained by a photo-enforcement system under subsection B was in violation of this section, the court shall impose a civil penalty upon the driver of such vehicle issued a summons under subsection A, or upon the driver or registered owner of such vehicle issued a summons under subsection B, payable to the HOT lanes operator as follows: for a first offense, \$50; for a second offense, \$250; for a third offense within a period of two years of the second offense, \$500; and for a fourth and subsequent offense within a period of three years of the second offense, \$1,000, together with, in each case, the unpaid toll, all accrued administrative fees imposed by the HOT lanes operator as authorized by this section, and applicable court costs. The court shall remand penalties, unpaid toll, and administrative fees assessed for violation of this section to the treasurer or director of finance of the county or city in which the violation occurred for payment to the HOT lanes operator for expenses associated with operation of the HOT lanes and payments against any bonds or other liens issued as a result of the construction of the HOT lanes. No person shall be subject to prosecution under both subsections A and B for actions arising out of the same transaction or occurrence.

3. Upon a finding by a court that a person has violated this section, in the event such person fails to pay the required penalties, fees, and costs, the court shall notify the Commissioner of Motor Vehicles, who shall suspend all of the registration certificates and license plates issued for any motor vehicles registered solely in the name of such person and shall not issue any registration certificate or license plate for any other vehicle that such person seeks to register solely in his name until the court has notified the Commissioner that such penalties, fees, and costs have been paid. The HOT lanes operator and the Commissioner may enter into an agreement whereby the HOT lanes operator may reimburse the Department of Motor Vehicles for their reasonable costs to develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner shall have an obligation to suspend such registration certificates so long as the HOT lanes operator makes the required reimbursements in a timely manner in accordance with the agreement.

4. Except as provided in subsections D and E, imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

D. 1. The HOT lanes operator may restrict the usage of the HOT lanes to designated vehicle classifications pursuant to an interim or final comprehensive agreement executed pursuant to § [56-566](#) or [56-566.1](#). Notice of any such vehicle classification restrictions shall be provided through the placement of signs or other markers prior to and at all HOT lanes entrances.

2. Any person driving an unauthorized vehicle on the designated HOT lanes shall be guilty of a traffic infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense, by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000.

Upon a conviction under this subsection, the court shall furnish to the Commissioner of the Department of Motor Vehicles, in accordance with § [46.2-383](#), an abstract of the record of such conviction that shall become a part of the person's driving record. Notwithstanding the provisions of § [46.2-492](#), no driver demerit points shall be assessed for any violation of this subsection, except that persons convicted of a second, third, fourth, or subsequent violation within five years of a first offense shall be assessed three demerit points for each such violation.

E. The driver of a vehicle who enters the HOT lanes by crossing through any barrier, buffer or other area separating the HOT lanes from other lanes of travel shall have committed a violation of § [46.2-852](#), *unless the vehicle is a state or local law-enforcement vehicle, firefighting truck, ambulance, or rescue squad vehicle used in the performance of its official duties*. No person shall be subject to both prosecution under this subsection and under subsection A, B, or D for actions arising out of the same transaction or occurrence.

Upon a conviction under this subsection, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § [46.2-383](#) an abstract of the record of such conviction, which shall become a part of the convicted person's driving record.

F. No person shall be subject to prosecution under both this section and under § [33.1-46.2](#), [46.2-819](#), or [46.2-819.1](#) for actions arising out of the same transaction or occurrence.

G. Any action under this section shall be brought in the general district court of the county or city in which the violation occurred.

2. That an emergency exists and this act is in force from its passage.

HOT lanes. Provides that emergency vehicles and law-enforcement vehicles that otherwise would be allowed free use of HOT lanes cannot do so when the vehicle is being used to commute.

CHAPTER 195

An Act to amend and reenact § [33.1-56.1](#) of the Code of Virginia, relating to use of HOT lanes by emergency vehicles and law-enforcement vehicles.

[H 1526]

Approved March 12, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [33.1-56.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [33.1-56.1](#). Definitions.

For purposes of this article:

"Board" means the Commonwealth Transportation Board;

"High-occupancy requirement" means the number of persons required to be traveling in a vehicle for the vehicle to use HOT lanes without the payment of a toll. Emergency vehicles, law-enforcement vehicles using HOT lanes in the performance of their duties, *which shall not include the use of such vehicles for commuting to and from the work place*, and mass transit vehicles and commuter buses shall meet the high-occupancy requirement for HOT lanes, regardless of the number of occupants in the vehicle;

"High-occupancy toll lanes" or "HOT lanes" means a portion of a highway containing one or more travel lanes separated from other lanes, that has an electronic toll collection system, provides for free passage by vehicles that meet the high-occupancy requirement, and contains a photo-enforcement system for use in such electronic toll collection. HOT lanes shall not be a "toll facility" or "HOV lanes" for the purposes of any other provision of law or regulation;

"HOT lanes operator" means the operator of the facility containing HOT lanes, which may include the Virginia Department of Transportation or some other entity;

"Mass transit vehicles" and "commuter buses" mean vehicles providing a scheduled transportation service to the general public. Such vehicles shall comprise nonprofit, publicly or privately owned or operated transportation services, programs, or systems that may be funded pursuant to § [58.1-638](#);

"Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles, or with the equivalent agency in another state. "Owner" does not mean a vehicle rental or vehicle leasing company;

"Photo-enforcement system" means a sensor installed in conjunction with a toll collection device to detect the presence of a vehicle that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle's license plate at the time it is detected by the toll collection device; and

"Unauthorized vehicle" means a motor vehicle that is restricted from use of the HOT lanes pursuant to subdivision D 1 of § [33.1-56.3](#).

TRAFFIC – SUMMARY ONLY

SB959 - § 46.2-924 - **Crossing highways.** Allows local governing bodies to adopt ordinances requiring users of shared-use paths to stop before crossing highways at marked crosswalks. This bill is identical to [HB 2217](#).

HB1701 - § 46.2-325 - **Examination of driver's license applicants.** Provides that no person who is at least 19 years old and who fails DMV's driver knowledge exam three times can take the exam a fourth time until he successfully completes a course of instruction based on the Virginia Driver's Manual offered by a licensed driver training school.

HB1476 - § 46.2-1190.2 - **Motorcycle rider training centers.** Requires that motorcycles supplied by motorcycle rider training centers meet at least two of three specified criteria as to engine displacement, vehicle weight, and seat height. This bill incorporates [HB 1865](#).

HB1944 - § 46.2-602.3 - **Inspection of converted electric vehicles; fee.** Allows safety inspectors of converted electric vehicles to charge an additional fee of no more than \$40 for such an inspection.

HB1539 - § 46.2-1516 - **Sale of motor vehicles on consignment.** Provides that a "supplemental sales location" license is not required for a licensed motor vehicle dealer, licensed T&M dealer, licensed trailer dealer, or licensed motorcycle dealer to sell vehicles, trailers, or motorcycles on consignment at wholesale auctions. The bill also allows the consignment sale of vehicles, trailers, or motorcycles that fail to pass safety inspection if the buyer is provided a written disclosure of that failure.

HB2029 - § 46.2-878 - **Speed limits.** Allows the Town of Quantico to reduce speed limits on any highways within its boundaries to less than 25 mph.

HB1514 - § 46.2-878 - **Golf carts and utility vehicles.** Adds the town of Wachapreague to the list of towns that may authorize over-the-road operation of golf carts and utility vehicles, even though the town does not have its own police department.

HB2202 - § 46.2-1233.1 - **Examination of driver's license applicants.** Provides that no person who is at least 19 years old and who fails DMV's driver knowledge exam three times can take the exam a fourth time until he successfully completes a course of instruction based on the Virginia Driver's Manual offered by a licensed driver training school.

CRIMINAL – FULL TEXT

Testimony regarding field-test identification of controlled substances. Provides that any law-enforcement officer shall be permitted to testify as to results of field tests approved by the Department of Forensic Science regarding identification of a substance at issue in a preliminary hearing on a violation of subdivision 6 of § 53.1-203 (possession of drugs by an inmate). Under current law, this provision applies to only violations of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 (drug crimes).

CHAPTER 60

An Act to amend and reenact § [19.2-188.1](#) of the Code of Virginia, relating to testimony regarding field-test identification of controlled substances.

[H 1376]

Approved March 5, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-188.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-188.1](#). Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2 *or a violation of subdivision 6 of § [53.1-203](#)*, any law-enforcement officer shall be permitted to testify as to the results of field tests ~~which~~ *that* have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § [18.2-247](#).

B. In any trial for a violation of § [18.2-250.1](#), any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § [18.2-250.1](#), or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

Impersonating a law-enforcement officer. Adds federal law-enforcement officers and any local, city, county, and state law-enforcement officers to the list of law-enforcement officers for which it is a Class 1 misdemeanor to falsely assume or exercise the functions, powers, duties, and privileges incident to the office of sheriff, police officer, marshal, or peace officer, or to falsely assume or pretend to be any such officer. This bill is identical to [SB 1128](#).

CHAPTER 410

An Act to amend and reenact § [18.2-174](#) of the Code of Virginia, relating to impersonating a law-enforcement officer; penalty.

[H 1358]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-174](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-174](#). Impersonating officer.

Any person who ~~shall falsely assume or exercise~~ *falsely assumes or exercises* the functions, powers, duties, and privileges incident to the office of sheriff, police officer, marshal, or other peace officer, ~~or any local, city, county, state, or federal law-enforcement officer,~~ *or who shall falsely assume or pretend* ~~falsely assumes or pretends~~ to be any such officer, ~~shall be deemed~~ *is* guilty of a Class 1 misdemeanor.

Impersonating a law-enforcement officer or other public safety personnel. Provides that any unauthorized person who wears a uniform identical to or substantially similar to a standard uniform used by an office of sheriff to impersonate the office of sheriff is guilty of a Class 1 misdemeanor (currently a Class 3 misdemeanor). The bill adds new punishment for a second or subsequent such offense: a Class 6 felony. The bill also adds the same new punishment for a second or subsequent offense of impersonating a law-enforcement officer or other public safety personnel, currently a Class 1 misdemeanor for any such offense.

CHAPTER 431

An Act to amend and reenact §§ [15.2-1612](#), [18.2-174](#), and [18.2-174.1](#) of the Code of Virginia, relating to impersonating a law-enforcement officer or other public safety personnel; penalty.

[H 1955]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [15.2-1612](#), [18.2-174](#), and [18.2-174.1](#) of the Code of Virginia are amended and reenacted as follows:

§ [15.2-1612](#). Wearing of same or similar uniforms by unauthorized persons; penalty.

Any unauthorized person who wears a uniform identical to or substantially similar to a standard uniform used by an office of sheriff in accordance with § [15.2-1610](#) with the intent to deceive a casual observer or with the intent to impersonate the office of sheriff, ~~shall be~~ is guilty of a Class ~~3~~ 1 misdemeanor. *A second or subsequent offense is punishable as a Class 6 felony.*

For purposes of this section, "substantially similar" means so similar in appearance as to be likely to deceive the casual observer.

§ [18.2-174](#). Impersonating law-enforcement officer; penalty.

Any person who ~~shall falsely assume or exercise~~ *assumes or exercises* the functions, powers, duties, and privileges incident to the office of sheriff, police officer, marshal, or other peace officer, or who ~~shall falsely assume or pretend~~ *assumes, or pretends*, to be any such officer, ~~shall be deemed~~ is guilty of a Class 1 misdemeanor. *A second or subsequent offense is punishable as a Class 6 felony.*

§ [18.2-174.1](#). Impersonating certain public safety personnel; penalty.

Any person who willfully impersonates, with the intent to make another believe he is, a certified emergency medical services personnel, firefighter, ~~including any~~ special forest warden designated pursuant to § [10.1-1135](#), fire marshal, or fire chief is guilty of a Class 1 misdemeanor. *A second or subsequent offense is punishable as a Class 6 felony.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$4,048 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

4. That the General Assembly determines that the requirements of the third enactment of this act have been met.

Protective orders; exempt from stay pending appeal. Clarifies that a protective order entered due to a violation of an initial protective order shall remain in effect upon petition for or the pendency of an appeal. The bill also includes family abuse protective orders issued in conjunction with a family abuse disposition among other protective orders that are not stayed upon appeal. This bill is a recommendation of the Committee on District Courts. The bill is identical to [SB 1016](#).

CHAPTER 73

An Act to amend and reenact §§ [16.1-106](#) and [16.1-298](#) of the Code of Virginia, relating to subsequent protective orders; exempt from stay pending appeal.

[H 1643]

Approved March 5, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [16.1-106](#) and [16.1-298](#) of the Code of Virginia are amended and reenacted as follows:

§ [16.1-106](#). Appeals from courts not of record in civil cases.

From any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy is of greater value than ~~fifty dollars~~ \$50, exclusive of interest, any ~~attorney's~~ attorney fees contracted for in the instrument, and costs, or when the case involves the constitutionality or validity of a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.), or of a protective order pursuant to § [19.2-152.10](#), there shall be an appeal of right, if taken within ~~ten~~ 10 days after such order or judgment, to a court of record. Such appeal shall be to a court of record having jurisdiction within the territory of the court from which the appeal is taken and shall be heard de novo.

The court from which an appeal is sought may refuse to suspend the execution of a judgment ~~which~~ that refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § [2.2-3713](#) of the Virginia Freedom of Information Act. A protective order issued pursuant to § [19.2-152.10](#), *including a protective order required by § [18.2-60.4](#)*, shall remain in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the judge of a circuit court or so directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

§ [16.1-298](#). Effect of petition for or pendency of appeal; bail.

A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a judge or justice thereof.

B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the pendency of an appeal or writ of error:

1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8, 9, 10, 12, 14, or 15 of § [16.1-278.8](#).

2. In cases involving a child and any local ordinance.

3. In cases involving any person over the age of ~~eighteen~~ 18 years.

Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a spouse, parent or child or to a preliminary protective order issued pursuant to § [16.1-253](#), (ii) an order disposing of a motion to reconsider relating to participation in continuing programs pursuant to § [16.1-289.1](#), (iii) a protective order in cases of family abuse issued pursuant to § [16.1-279.1](#), *including a protective order required by § [16.1-253.2](#)*, or a protective order entered in conjunction with a disposition pursuant to § [16.1-278.2](#), [16.1-278.4](#), [16.1-278.5](#), [16.1-278.6](#)~~or~~, [16.1-278.8](#), or [16.1-278.14](#), (iv) a protective order issued pursuant to § [19.2-152.10](#), *including a protective order required by § [18.2-60.4](#)*, or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by order of the juvenile court or the circuit court, bail may be required as provided for in § [16.1-135](#).

D. If an appeal to the circuit court is withdrawn in accordance with § [16.1-106.1](#), the judgment, order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant to subsection F of § [16.1-106.1](#). If an appeal is withdrawn, any court-appointed counsel or court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

Synthetic cannabinoids; research chemicals; penalties. Amends provisions added to the Code in previous years regarding the criminalization of synthetic cannabinoids and chemicals known as "research chemicals" (previously referred to as "bath salts") to add newly identified chemical compounds and structural classes. In addition to adding new chemical compounds as synthetic cannabinoids, the bill adds newly identified structural classes of synthetic cannabinoids so that new chemical compounds that fit within the structural class will nevertheless be considered synthetic cannabinoids without the precise chemical compound having to be added to the Code. The bill contains an emergency clause and incorporates [HB 1843](#).

CHAPTER 295

An Act to amend and reenact §§ [18.2-248.1:1](#) and [54.1-3446](#) of the Code of Virginia, relating to regulation of synthetic cannabinoids; research chemicals; penalties.

[H 1941]

Approved March 13, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-248.1:1](#) and [54.1-3446](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-248.1:1](#). Penalties for possession, sale, gift, or distribution of or possession with intent to sell, give, or distribute synthetic cannabinoids; manufacturing.

A. For the purposes of this title, synthetic cannabinoids means any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

1. "Cannabimimetic agents" means any substance that is within any of the following structural classes:

a. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

b. 3-(1-naphthoyl)indole or ~~1H-indol-3-yl-(1-naphthyl)methane~~ *1H-indol-3-yl-(1-naphthyl)methane* with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

c. 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

d. 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent; ~~or~~

e. 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

f. 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

g. 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

h. N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; or

i. N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

2. The term cannabimimetic agents includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other name: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

~~Pravadoline-(4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone~~ (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other ~~name~~ names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other ~~name~~ names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: XLR-11);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other name: AKB48).

B. It is unlawful for any person to knowingly or intentionally possess synthetic cannabinoids. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person to sell, give, distribute, or possess with intent to sell, give, or distribute synthetic cannabinoids. Any person who violates this subsection is guilty of a Class 6 felony.

D. If a person proves that he gave, distributed or possessed with intent to give or distribute synthetic cannabinoids only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the synthetic cannabinoids to use or become addicted to or dependent upon such synthetic cannabinoids, he is guilty of a Class 1 misdemeanor. Any person who gives, distributes or possesses synthetic cannabinoids as an accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility as defined in § [53.1-1](#), or in the custody of an employee thereof is guilty of a Class 4 felony.

E. Any person who manufactures synthetic cannabinoids or possesses synthetic cannabinoids with intent to manufacture such substance is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed \$10,000.

F. Any drug not listed in this section or the Drug Control Act (§ [54.1-3400](#) et seq.), which is privately compounded, with the specific intent to circumvent the criminal penalties for synthetic cannabinoids, to emulate or simulate the effects of synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent, shall be subject to the same criminal penalties as for synthetic cannabinoids.

G. Upon conviction, in addition to any other punishment, a person found guilty of a violation of this section shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such synthetic cannabinoid production. This restitution may include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property.

§ [54.1-3446](#). Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;
Levophenacymorphan;
Morpheridine;
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
Phenadoxone;
Phenampromide;
Phenomorphane;
Phenoperidine;
Piritramide;
Proheptazine;
Propерidine;
Propiram;
Racemoramide;
Tilidine;
Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;

Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine;
Heroin;
Hydromorphenol;
Methyldesorphine;
Methyldihydromorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine;
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase;a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB;2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo - b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: [1-1](#)-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

[1-1](#)-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypropylvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC)

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3.4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);

(2-aminopropyl)benzofuran (other name: APB);

(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);

4-chloro-2,5-dimethoxy-N-[2-methoxyphenyl]methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe);

4-bromo-2,5-dimethoxy-N-[2-methoxyphenyl]methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4, 5-dihydro-5-phenyl-2-oxazolamine);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

Fenethylamine;

Ethylamphetamine;

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers;

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of isomers;

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and salts of isomers;

N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);

N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;

N-1-benzyl-4-piperidyl]-N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;

N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts and salts of isomers;

N-(3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;

N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thienylfentanyl), its optical isomers, salts and salts of isomers;

N-phenyl-N-1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl), its optical isomers, salts and salts of isomers;

N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidyl] propanamide (other name: para-fluorofentanyl), its optical isomers, salts and salts of isomers.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That an emergency exists and this act is in force from its passage.

Allowing child or incapacitated person to be present in methamphetamine manufactory; penalty. Provides that any person 18 years of age or older who knowingly allows a child younger than 15 years of age or a mentally incapacitated or physically helpless person to be present in the same dwelling, apartment, unit of a hotel, garage, shed, or vehicle during the manufacture or attempted manufacture of methamphetamine is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years. Currently, the prohibition applies only to a child in care or custody of the miscreant.

CHAPTER 743

An Act to amend and reenact § [18.2-248.02](#) of the Code of Virginia, relating to manufacture of methamphetamine in presence of a minor or incapacitated person; penalty.

[H 1816]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-248.02](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-248.02](#). Allowing a minor or incapacitated person to be present during manufacture or attempted manufacture of methamphetamine prohibited; penalties.

Any person 18 years of age or older who *knowingly allows* (i) a minor under the age of 15, (ii) a minor 15 years of age or older with whom he maintains a custodial relationship ~~over a child under the age of 18~~, including but not limited to ~~as~~ a parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such ~~child~~ minor, ~~and who knowingly allows that child~~ or (iii) a mentally incapacitated or physically helpless person of any age, to be present in the same dwelling, apartment as defined by § [55-79.2](#), unit of a hotel as defined in § [35.1-1](#), garage, shed, or vehicle during the manufacture or attempted manufacture of methamphetamine as prohibited by subsection C1 of § [18.2-248](#) is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years. This penalty shall be in addition to and served consecutively with any other sentence.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

4. That the General Assembly determines that the requirements of the third enactment of this act have been met.

Sex offenses involving a child; communications systems and indecent liberties. Provides that it shall be unlawful for any person 18 years of age or older to use a communications system, including computers, computer networks, bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child younger than 15 years of age to knowingly and intentionally propose that any such child feel or fondle his own sexual or genital parts. The provision also applies if the child is at least 15 and the perpetrator is more than seven years older than the child. Currently, it is unlawful to, among other things, propose that the child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of the child. The bill also includes in indecent liberties proposing that a child under the age of 15 feel or fondle his own sexual or genital parts. This bill is identical to [SB 1031](#).

CHAPTER 423

An Act to amend and reenact §§ [18.2-370](#) and [18.2-374.3](#) of the Code of Virginia, relating to certain sexual offenses involving children.

[H 1745]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-370](#) and [18.2-374.3](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-370](#). Taking indecent liberties with children; penalties.

A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

(1) Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or

(2) [Repealed.]

(3) Propose that any such child feel or fondle *his own sexual or genital parts* or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or

(4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § [18.2-361](#); or

(5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section.

B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in § [18.2-374.1](#) or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 4 felony; provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § [53.1-151](#) between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

D. Any parent, step-parent, grandparent or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § [18.2-370.1](#) (i) upon his child, step-child, grandchild or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

§ [18.2-374.3](#). Use of communications systems to facilitate certain offenses involving children.

A. As used in subsections C, D, and E "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.

B. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § [18.2-370](#) or § [18.2-374.1](#). A violation of this subsection is a Class 6 felony.

C. It shall be unlawful for any person 18 years of age or older to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child ~~less~~ *younger* than 15 years of age to knowingly and intentionally:

1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person;
2. Propose that any such child feel or fondle *his own sexual or genital parts or* the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;
3. Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § [18.2-361](#); or
4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.

Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age, the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this subsection when the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age shall be punished by a term of imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. Any person who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any child he knows or has reason to believe is at least 15 years of age but ~~less~~ *younger* than 18 years of age to knowingly and intentionally commit any of the activities listed in subsection C if the person is at least seven years older than the child is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this subsection shall be punished by a term of imprisonment of not less than one nor more than 20 years, one year of which shall be a mandatory minimum term of imprisonment.

E. Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting

any person he knows or has reason to believe is a child—~~less~~ *younger* than 18 years of age for (i) any activity in violation of § [18.2-355](#) or [18.2-361](#), (ii) any activity in violation of § [18.2-374.1](#), or (iii) a violation of § [18.2-374.1:1](#) is guilty of a Class 5 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Prostitution; solicitation of a minor; penalty. Provides that, in addition to the current Class 1 misdemeanor punishment for solicitation of prostitution generally, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony. This bill is identical to [SB 1015](#).

CHAPTER 417

An Act to amend and reenact § [18.2-346](#) of the Code of Virginia, relating to solicitation of a minor for prostitution; penalty.

[H 1606]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-346](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-346](#). Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties.

A. Any person who, for money or its equivalent, (i) commits adultery, fornication, or any act in violation of § [18.2-361](#), or (ii) offers to commit adultery, fornication, or any act in violation of § [18.2-361](#) and thereafter does any substantial act in furtherance thereof, ~~shall be~~ is guilty of being a prostitute, or prostitution, which ~~shall be~~ is punishable as a Class 1 misdemeanor.

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated ~~above in subsection A~~ and thereafter does any substantial act in furtherance thereof ~~shall be~~ is guilty of solicitation of prostitution ~~and shall be guilty of, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.~~

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Criminal street gang predicate offenses. Expands the definition of a predicate criminal act associated with gang activity to include the following crimes: murder, aggravated malicious wounding, reckless endangerment by throwing objects, strangulation of another, possession of infectious biological substances or radiological agents, burglary, entering dwelling house, etc., with intent to commit murder, rape, robbery or arson, grand larceny, receipt of a stolen firearm, manufacturing, distributing, etc., or possessing with intent to manufacture or distribute methamphetamine, discharging firearms or missiles within or at building or dwelling house, use of machine gun for crime of violence, possession or use of "sawed-off" shotgun or rifle, possession of firearm by felon, possession of firearms by persons not legally present, possession of firearms while in possession of controlled substances, felony stalking, felony distribution, etc., of synthetic cannabinoids, a felony violation of manufacture, etc., of controlled substances, felony violation of distribution or possession with intent to distribute marijuana, conspiracy to commit a felony violation of manufacture, etc., of controlled substances, conspiracy to commit a felony violation of distribution or possession with intent to distribute marijuana. This bill is identical to [SB 1205](#).

CHAPTER 573

An Act to amend and reenact § [18.2-46.1](#) of the Code of Virginia, relating to criminal street gang predicate offenses; penalties.

[H 1847]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-46.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-46.1](#). Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § [19.2-297.1](#).

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § [18.2-31](#), [18.2-42](#), [18.2-46.3](#), [18.2-51](#), [18.2-51.1](#), [18.2-51.2](#), [18.2-51.3](#), [18.2-51.6](#), [18.2-52](#), [18.2-52.1](#), [18.2-53](#), [18.2-53.1](#), [18.2-55](#), [18.2-56.1](#), [18.2-57](#), [18.2-57.2](#), [18.2-59](#), [18.2-83](#), [18.2-89](#), [18.2-90](#), [18.2-95](#), [18.2-108.1](#), [18.2-121](#), [18.2-127](#), [18.2-128](#), [18.2-137](#), [18.2-138](#), [18.2-146](#), [18.2-147](#), subsection H, H1 or H2 of § [18.2-248](#), § [18.2-248.01](#), [18.2-248.03](#), [18.2-255](#), [18.2-255.2](#), [18.2-279](#), [18.2-282.1](#), [18.2-286.1](#), [18.2-287.4](#), [18.2-289](#), [18.2-300](#), [18.2-308.1](#), [18.2-308.2](#), [18.2-308.2:01](#), [18.2-308.4](#), [18.2-355](#), [18.2-356](#), or [18.2-357](#); (iii) a felony violation of § [18.2-60.3](#) or [18.2-248.1:1](#); (iv) a second or subsequent felony violation of subsection C of § [18.2-248](#) or of § [18.2-248.1](#) or a conspiracy to commit a felony violation of § [18.2-248](#) or [18.2-248.1](#); ~~(iv)~~ (v) any violation of a local ordinance adopted pursuant to § [15.2-1812.2](#); or ~~(v)~~ (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is at least \$574,916 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

4. That the General Assembly determines that the requirements of the third enactment of this act have been met.

Tax-paid contraband cigarettes; penalties. Increases the penalty for possession with intent to distribute more than 25 but fewer than 500 cartons of tax-paid cigarettes by a person other than an authorized holder from a Class 2 to a Class 1 misdemeanor for a first offense and from a Class 1 misdemeanor to a Class 6 felony for a second or subsequent offense. The bill also imposes a Class 6 felony for possession, with intent to distribute, of 500 or more cartons of tax-paid cigarettes by a person other than an authorized holder and a Class 5 felony for a second or subsequent offense. This bill is identical to [SB 1017](#).

CHAPTER 567

An Act to amend and reenact § [58.1-1017.1](#) of the Code of Virginia, relating to possession with intent to distribute tax-paid, contraband cigarettes; penalties.

[H 1783]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [58.1-1017.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-1017.1](#). Possession with intent to distribute tax-paid, contraband cigarettes; penalty.

Any person other than an authorized holder who possesses, with intent to distribute, more than 5,000 (25 cartons) *but fewer than 100,000 (500 cartons)* tax-paid cigarettes is guilty of a Class ~~2~~ 1 misdemeanor for a first offense and is guilty of a Class ~~1~~ ~~misdemeanor~~ 6 felony for any second or subsequent offense. *Any person other than an authorized holder who possesses, with intent to distribute, 100,000 (500 cartons) or more tax-paid cigarettes is guilty of a Class 6 felony for a first offense and is guilty of a Class 5 felony for a second or subsequent offense.* Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no more than \$5,000, for a first offense; (ii) \$5 per pack, but no more than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no more than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Unstamped cigarettes; sale, transport, possession, etc.; penalties. Provides that it is a Class 6 felony to sell, purchase, transport, receive, or possess 500 or more packages of unstamped cigarettes and a Class 5 felony for a second offense; under current law, the threshold is 3,000 or more packages and there is no heightened penalty for a second offense. The bill also provides that it is a Class 1 misdemeanor to sell fewer than 500 packages of unstamped cigarettes; under current law the threshold is fewer than 3,000 packages and is a Class 2 misdemeanor.

CHAPTER 570

An Act to amend and reenact § [58.1-1017](#) of the Code of Virginia, relating to sale, purchase, possession, etc., of cigarettes for purpose of evading tax; penalties.

[H 1820]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [58.1-1017](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-1017](#). Sale, purchase, possession, etc., of cigarettes for purpose of evading tax; penalties.

A. Any person, except as otherwise provided by law, who sells, purchases, transports, receives, or possesses unstamped cigarettes shall be required to pay any tax owed pursuant to this chapter. In addition, such person shall be required to pay a civil penalty of (i) \$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5 per pack, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per pack, up to \$50,000, for the third and any subsequent violation by the legal entity within a 36-month period, to be assessed and collected by the Department as other taxes are collected. In addition, where willful intent exists to defraud the Commonwealth of the tax levied under this chapter, such person shall be required to pay a civil penalty of \$25 per pack, up to \$250,000.

B. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, receive or possess less than ~~3,000~~ 500 packages of cigarettes unless the same have been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person violating the provisions of this subsection ~~shall be~~ is guilty of a Class ~~2~~ 1 misdemeanor. *Any person who is convicted of a second or subsequent violation of this subsection is guilty of a Class 6 felony, provided that the accused was at liberty as defined in § [53.1-151](#) between each conviction and it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this subsection.*

C. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, receive or possess ~~3,000~~ 500 or more packages of cigarettes unless the same have been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person violating the provisions of this subsection shall be guilty of a Class 6 felony. *Any person who is convicted of a second or subsequent violation of this subsection is guilty of a Class 5 felony, provided that the accused was at liberty as defined in § [53.1-151](#) between each conviction and it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this subsection.*

D. If a person who (i) has not been issued a permit to affix revenue stamps by the Department, as provided in § [58.1-1011](#), or (ii) is not a retail dealer who has lawfully purchased cigarettes from such permit holder has in his possession within the Commonwealth more than 30 packages of unstamped cigarettes, such possession shall be presumed to be for the purpose of evading the payment of the taxes due thereon. No civil penalty shall be imposed under this section for any unstamped cigarettes if a civil penalty under § [58.1-1013](#) has been paid for such unstamped cigarettes.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of

imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Unstamped cigarettes; sale, transport, possession, etc.; penalties. Provides that it is a Class 6 felony to sell, purchase, transport, receive, or possess 500 or more packages of unstamped cigarettes; under current law, the threshold is 3,000 or more packages. The bill also provides that it is a Class 1 misdemeanor to sell fewer than 500 packages of unstamped cigarettes; under current law, the threshold is fewer than 3,000 packages and is a Class 2 misdemeanor.

CHAPTER 624

An Act to amend and reenact § [58.1-1017](#) of the Code of Virginia, relating to unstamped cigarettes; sale, transport, possession, etc.; penalties.

[S 1018]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [58.1-1017](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-1017](#). Sale, purchase, possession, etc., of cigarettes for purpose of evading tax; penalties.

A. Any person, except as otherwise provided by law, who sells, purchases, transports, receives, or possesses unstamped cigarettes shall be required to pay any tax owed pursuant to this chapter. In addition, such person shall be required to pay a civil penalty of (i) \$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5 per pack, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per pack, up to \$50,000, for the third and any subsequent violation by the legal entity within a 36-month period, to be assessed and collected by the Department as other taxes are collected. In addition, where willful intent exists to defraud the Commonwealth of the tax levied under this chapter, such person shall be required to pay a civil penalty of \$25 per pack, up to \$250,000.

B. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, receive or possess less than ~~3,000~~ 500 packages of cigarettes unless the same have been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

C. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, receive or possess ~~3,000~~ 500 or more packages of cigarettes unless the same have been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person violating the provisions of this subsection shall be guilty of a Class 6 felony.

D. If a person who (i) has not been issued a permit to affix revenue stamps by the Department, as provided in § [58.1-1011](#), or (ii) is not a retail dealer who has lawfully purchased cigarettes from such permit holder has in his possession within the Commonwealth more than 30 packages of unstamped cigarettes, such possession shall be presumed to be for the purpose of evading the payment of the taxes due thereon. No civil penalty shall be imposed under this section for any unstamped cigarettes if a civil penalty under § [58.1-1013](#) has been paid for such unstamped cigarettes.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Counterfeit cigarettes; penalties. Provides that any person who knowingly distributes or possesses with the intent to distribute counterfeit cigarettes where the amount is fewer than 10 cartons is guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. If the amount is 10 or more cartons, the offense is a Class 6 felony.

CHAPTER 625

An Act to amend and reenact §§ [18.2-246.13](#), [18.2-246.14](#), [18.2-246.15](#), and [19.2-245.01](#) of the Code of Virginia, relating to counterfeit cigarettes; penalties.

[S 1019]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-246.13](#), [18.2-246.14](#), [18.2-246.15](#), and [19.2-245.01](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-246.13](#). Civil penalties; penalties.

A. ~~Except as specifically~~ *In addition to any criminal penalties for violations of this article and except for civil penalties otherwise provided in § [18.2-246.14](#) this article*, a first violation of any provision of this article shall be punishable by a civil penalty of no more than \$1,000. A second or subsequent violation of any provision of this article shall be punishable by a civil penalty of no more than \$10,000.

B. Any prospective consumer who knowingly submits a false certification under subdivision A 1 of § [18.2-246.8](#) shall be subject to a civil penalty of no more than \$5,000 for each such offense.

C. Any person failing to collect or remit to the Board or the Department of Taxation any tax required in connection with a delivery sale shall be assessed, in addition to any other applicable penalty, a civil penalty of no more than five times the retail value of the cigarettes involved.

D. Any civil penalty collected under this article shall be paid to the general fund.

E. Any person who fails to file the statement required by subsection A of § [18.2-246.11](#) and thereafter makes a delivery sale is guilty of a Class 1 misdemeanor and for any second or subsequent offense is guilty of a violation of § [18.2-498.3](#).

F. Any person who knowingly and with the intent to defraud, mislead, or deceive makes a statement filed as required by subsection A of § [18.2-246.11](#) which is false is guilty of a violation of § [18.2-498.3](#). Each such filed statement containing one or more false statements shall constitute a separate offense.

G. Any person who fails to make the report required by subsection B of § [18.2-246.11](#) is guilty of a Class 1 misdemeanor and for any second or subsequent offense is guilty of a violation of § [18.2-498.3](#).

H. Any person who knowingly and with the intent to defraud, mislead, or deceive makes a materially false statement in any report required by subsection B of § [18.2-246.11](#) is guilty of a violation of § [18.2-498.3](#). Each such report containing one or more false statements constitutes a separate offense.

§ [18.2-246.14](#). Counterfeit cigarettes; penalty; civil penalty.

A. It ~~shall be~~ *is* unlawful to ~~sell~~ *distribute* or possess counterfeit cigarettes.

B. Any person who knowingly distributes or possesses with the intent to distribute a total quantity of less than 10 cartons of counterfeit cigarettes is guilty of a Class 1 misdemeanor. Any person who is convicted of a second or subsequent offense involving a total quantity of less than 10 cartons of counterfeit cigarettes is guilty of a Class 6 felony, provided that the accused was at liberty as defined in § [53.1-151](#) between each conviction, and it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this subsection. Any person who knowingly distributes or possesses with the intent to distribute a total quantity of 10 or more cartons of counterfeit cigarettes is guilty of a Class 6 felony.

C. Any person who knowingly violates subsection A with a total quantity of less than two cartons of cigarettes shall be punished by a civil penalty of no more than \$1,000. Any person who knowingly violates subsection A shall, for a second or subsequent offense involving a total quantity of less than two cartons of cigarettes, be punished by a civil penalty of no more than \$5,000 and, if applicable, the revocation by the Department of Taxation of his wholesale dealer license.

~~C.~~ D. Any person who knowingly violates subsection A with a total quantity of two or more cartons of cigarettes shall be punished by a civil penalty of no more than \$2,000. Any person who knowingly violates subsection A shall, for a second or subsequent offense involving a total quantity of two or more cartons of cigarettes, be punished by a civil penalty of no more than \$50,000 and, if applicable, the revocation by the Department of Taxation of his wholesale dealer license.

For purposes of this section, counterfeit cigarettes shall include but not be limited to cigarettes that (i) have false manufacturing labels, (ii) are not manufactured by the manufacturer indicated on the container, or (iii) have affixed to the container a false tax stamp.

§ [18.2-246.15](#). Enforcement.

The Attorney General is authorized to enforce the provisions of this article. The Attorney General may assess the civil penalties authorized by this article, with the concurrence of the attorney for the Commonwealth pursuant to § [2.2-511](#), may prosecute criminal violations under § [18.2-246.13](#) *this article*, and may bring an action in the appropriate court to collect assessed penalties or prevent or restrain violations of this article by any person, or any person controlling such person. The Board and the State Department of Taxation shall cooperate with the Attorney General in his enforcement efforts and provide to the Attorney General all information and documentation in their possession necessary for the Attorney General to accomplish such enforcement.

§ [19.2-245.01](#). Offenses involving reports or statements concerning cigarette sales or stamping.

Any criminal violation of Chapter 42 (§ [3.2-4200](#) et seq.) of Title 3.2 ~~or of~~ § [18.2-246.13](#), Article 10 (§ [18.2-246.6](#) et seq.) of Chapter 6 of Title 18.2, or § [18.2-514](#) involving reports or statements concerning cigarette sales or stamping may be prosecuted in the City of Richmond.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

RICO; contraband cigarettes; penalties. Adds possession with intent to distribute tax-paid contraband cigarettes as a qualifying offense under the Virginia Racketeer Influenced and Corrupt Organization Act.

CHAPTER 626

An Act to amend and reenact § [18.2-513](#) of the Code of Virginia, relating to the Virginia Racketeer Influenced and Corrupt Organization Act; contraband cigarettes; penalties.

[S 1020]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-513](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-513](#). Definitions.

As used in this chapter, the term:

"Criminal street gang" shall be as defined in § [18.2-46.1](#).

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang; or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" shall be as defined in § [18.2-246.2](#).

"Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ [18.2-46.1](#) et seq.) of Chapter 4 of this title, § [18.2-460](#); a felony offense of §§ [3.2-4212](#), [3.2-4219](#), [10.1-1455](#), [18.2-31](#), [18.2-32](#), [18.2-32.1](#), [18.2-33](#), [18.2-35](#), Article 2.2 (§ [18.2-46.4](#) et seq.) of Chapter 4 of this title, §§ [18.2-47](#), [18.2-48](#), [18.2-48.1](#), [18.2-49](#), [18.2-51](#), [18.2-51.2](#), [18.2-52](#), [18.2-53](#), [18.2-55](#), [18.2-58](#), [18.2-59](#), [18.2-77](#), [18.2-79](#), [18.2-80](#), [18.2-89](#), [18.2-90](#), [18.2-91](#), [18.2-92](#), [18.2-93](#), [18.2-95](#), Article 4 (§ [18.2-111](#) et seq.) of Chapter 5 of this title, Article 1 (§ [18.2-168](#) et seq.) of Chapter 6 of this title, §§ [18.2-178](#), [18.2-186](#), Article 6 (§ [18.2-191](#) et seq.) of Chapter 6 of this title, Article 9 (§ [18.2-246.1](#) et seq.) of Chapter 6 of this title, § [18.2-246.13](#), Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of this title, §§ [18.2-279](#), [18.2-286.1](#), [18.2-289](#), [18.2-300](#), [18.2-308.2](#), [18.2-308.2:1](#), [18.2-328](#), [18.2-348](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-368](#), [18.2-369](#), [18.2-374.1](#), Article 8 (§ [18.2-433.1](#) et seq.) of Chapter 9 of this title, Article 1 (§ [18.2-434](#) et seq.) of Chapter 10 of this title, Article 2 (§ [18.2-438](#) et seq.) of Chapter 10 of this title, Article 3 (§ [18.2-446](#) et seq.) of Chapter 10 of this title, Article 1.1 (§ [18.2-498.1](#) et seq.) of Chapter 12 of this title, § [3.2-6571](#), [18.2-516](#), [32.1-314](#), [58.1-1008.2](#), ~~or 58.1-1017~~, or [58.1-1017.1](#); or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Forfeiture of cigarettes. Allows forfeiture of cigarettes possessed in violation of laws regarding the sale, purchase, transport, receipt, or possession of unstamped cigarettes and the possession with intent to distribute of certain amounts of tax-paid cigarettes if the violation is knowing and intentional.

CHAPTER 627

An Act to amend and reenact § [19.2-386.21](#) of the Code of Virginia, relating to forfeiture of contraband cigarettes.

[S 1022]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-386.21](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-386.21](#). Forfeiture of counterfeit and contraband cigarettes.

Counterfeit cigarettes possessed in violation of § [18.2-246.14](#) and cigarettes possessed in violation of § [58.1-1017](#) or [58.1-1017.1](#) shall be subject to seizure, forfeiture, and destruction by the Virginia Alcoholic Beverage Control Board or any law-enforcement officer of the Commonwealth. All fixtures, equipment, materials, and personal property used in substantial connection with (i) the sale or possession of counterfeit cigarettes in a knowing and intentional violation of Article 10 (§ [18.2-246.6](#) et seq.) of Chapter 6 of Title 18.2 or (ii) the sale or possession of cigarettes in a knowing and intentional violation of § [58.1-1017](#) or [58.1-1017.1](#) shall be subject to seizure and forfeiture according to the procedures contained in Chapter 22.1 (§ [19.2-386.1](#) et seq.) of this title, applied mutatis mutandis

Emergency medical services personnel; penalty for assault and battery. Adds emergency medical services personnel members who are employed by or volunteers of an emergency medical services agency and engaged in the performance of their public duties to the list of individuals of whom assault and battery may be a Class 6 felony with a six-month mandatory minimum sentence.

CHAPTER 698

An Act to amend and reenact § 18.2-57 of the Code of Virginia, relating to emergency medical services personnel; penalty for assault and battery.

[H 1927]

Approved March 22, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-57 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-57. Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department, a firefighter as defined in § 65.2-102, or a volunteer firefighter or lifesaving or rescue squad member who is a ~~any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad services agency,~~ regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or ~~members~~ emergency medical services personnel as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties as

an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § [17.1-105](#), a judge under temporary recall under § [17.1-106](#), or a judge pro tempore under § [17.1-109](#), any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § [10.1-115](#), any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § [29.1-200](#), and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § [46.2-217](#), and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ [15.2-1731](#) and [15.2-1733](#), auxiliary deputy sheriffs appointed pursuant to § [15.2-1603](#), police officers of the Metropolitan Washington Airports Authority pursuant to § [5.1-158](#), and fire marshals appointed pursuant to § [27-30](#) when such fire marshals have police powers as set out in §§ [27-34.2](#) and [27-34.2:1](#).

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at the time of the event.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.
4. That the General Assembly determines that the requirements of the third enactment of this act have been met.

Assault and battery of magistrate; penalty. Elevates the punishment for committing an assault and battery against a magistrate who is engaged in the performance of his public duties from a Class 1 misdemeanor to a Class 6 felony, with a six-month mandatory minimum term of confinement. The bill incorporates [SB 966](#).

CHAPTER 711

An Act to amend and reenact § [18.2-57](#) of the Code of Virginia, relating to assault and battery of a magistrate; penalty.

[S 853]

Approved March 23, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-57](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-57](#). Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, *a magistrate*, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § [53.1-1](#), a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department, a firefighter as defined in § [65.2-102](#), or a volunteer firefighter or lifesaving or rescue squad member who is a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or members as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § [18.2-308.1](#), the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § [8.01-581.1](#) who is engaged in the performance of his duties as an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon

conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § [17.1-105](#), a judge under temporary recall under § [17.1-106](#), or a judge pro tempore under § [17.1-109](#), any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § [10.1-115](#), any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § [29.1-200](#), and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § [46.2-217](#), and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ [15.2-1731](#) and [15.2-1733](#), auxiliary deputy sheriffs appointed pursuant to § [15.2-1603](#), police officers of the Metropolitan Washington Airports Authority pursuant to § [5.1-158](#), and fire marshals appointed pursuant to § [27-30](#) when such fire marshals have police powers as set out in §§ [27-34.2](#) and [27-34.2:1](#).

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at the time of the event.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$7,680 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Assault and battery; local and regional correctional facility employees; penalty. Adds employees of local or regional correctional facilities to the enhanced penalty provision so that the assault and battery of such an officer who is engaged in the performance of his public duties is a Class 6 felony, with a six-month mandatory minimum term of confinement.

CHAPTER 748

An Act to amend and reenact § 18.2-57 of the Code of Virginia, relating to assault and battery of an employee of a local or regional correctional facility; penalty.

[H 1850]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-57 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-57. Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department *or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility*, a firefighter as defined in § 65.2-102, or a volunteer firefighter or lifesaving or rescue squad member who is a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or members as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties as

an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § [17.1-105](#), a judge under temporary recall under § [17.1-106](#), or a judge pro tempore under § [17.1-109](#), any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § [10.1-115](#), any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § [29.1-200](#), and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § [46.2-217](#), and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ [15.2-1731](#) and [15.2-1733](#), auxiliary deputy sheriffs appointed pursuant to § [15.2-1603](#), police officers of the Metropolitan Washington Airports Authority pursuant to § [5.1-158](#), and fire marshals appointed pursuant to § [27-30](#) when such fire marshals have police powers as set out in §§ [27-34.2](#) and [27-34.2:1](#).

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at the time of the event.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.
4. That the General Assembly determines that the requirements of the third enactment of this act have been met.

Penalty for second offense of stalking. Provides that, upon conviction of a second offense of stalking occurring within five years of a prior conviction of such an offense, if such person was also convicted within the five-year period prior to the instant offense of a violation of (i) assault and battery and other crimes against the person when the victim of that crime was the same person who was the victim of the stalking activity in the instant conviction, (ii) domestic assault, or (iii) a protective order, such person is guilty of a Class 6 felony.

CHAPTER 759

An Act to amend and reenact §§ [18.2-60.3](#) and [18.2-308.1:4](#) of the Code of Virginia, relating to felony punishment for a second stalking conviction.

[H 2211]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-60.3](#) and [18.2-308.1:4](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-60.3](#). Stalking; penalty.

A. Any person, except a law-enforcement officer, as defined in § [9.1-101](#), and acting in the performance of his official duties, and a registered private investigator, as defined in § [9.1-138](#), who is regulated in accordance with § [9.1-139](#) and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor.

~~B.~~ *Any person who is convicted of a second offense of subsection A occurring within five years of a prior conviction of such an offense when the person was also convicted within the five-year period prior to the instant offense of a violation of (i) § [18.2-51](#), [18.2-51.2](#), [18.2-51.6](#), [18.2-52](#), or [18.2-57](#) and the victim of that crime was the same person who is the victim of the stalking activity in the instant conviction, (ii) § [18.2-57.2](#), or (iii) a protective order, is guilty of a Class 6 felony.*

~~C.~~ *Any person convicted of a third or subsequent conviction of subsection A occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be is guilty of a Class 6 felony.*

~~D.~~ *A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section provided that the prosecution is based upon conduct occurring within the Commonwealth.*

~~E.~~ *Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.*

~~F.~~ *The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least ~~fifteen~~ 15 days prior to release of a person sentenced to a term of incarceration of more than ~~thirty~~ 30 days or, if the person was sentenced to a term of incarceration of at least ~~forty-eight~~ 48 hours but no more than ~~thirty~~ 30 days, ~~twenty-four~~ 24 hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.*

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

~~F.~~ G. For purposes of this section:

"Family or household member" has the same meaning as provided in § [16.1-228](#).

§ [18.2-308.1:4](#). Purchase or transportation of firearm by persons subject to protective orders; penalty.

It ~~shall be~~ *is* unlawful for any person who is subject to (i) a protective order entered pursuant to § [16.1-253.1](#), [16.1-253.4](#), [16.1-278.2](#), [16.1-279.1](#), [19.2-152.8](#), [19.2-152.9](#), or [19.2-152.10](#); (ii) an order issued pursuant to subsection B of § [20-103](#); (iii) an order entered pursuant to subsection ~~D~~ E of § [18.2-60.3](#); (iv) a preliminary protective order entered pursuant to subsection F of § [16.1-253](#) where a petition alleging abuse or neglect has been filed; or (v) an order issued by a tribunal of another state, the United States or any of its territories, possessions or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to those cited in clauses (i), (ii), (iii), or (iv) to purchase or transport any firearm while the order is in effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm, and shall surrender his permit to the court entering the order, for the duration of any protective order referred to herein. A violation of this section is a Class 1 misdemeanor.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is at least \$23,197 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Financial exploitation of incapacitated persons; penalty. Provides that it is unlawful for any person who knows or should know that another person suffers from mental incapacity to, through the use of that other person's mental incapacity, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. A violation is punishable as larceny. This bill incorporates [HB 1455](#) and [HB 1603](#) and is identical to [SB 706](#).

CHAPTER 419

An Act to amend the Code of Virginia by adding a section numbered [18.2-178.1](#), relating to financial exploitation of incapacitated persons; penalty.

[H 1682]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [18.2-178.1](#) as follows:

§ [18.2-178.1](#). *Financial exploitation of mentally incapacitated persons; penalty.*

A. It is unlawful for any person who knows or should know that another person suffers from mental incapacity to, through the use of that other person's mental incapacity, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. Any person who violates this section shall be deemed guilty of larceny.

B. Venue for the trial of an accused charged with a violation of this section shall be in any county or city in which (i) any act was performed in furtherance of the offense or (ii) the accused resided at the time of the offense.

C. This section shall not apply to a transaction or disposition of money or other thing of value in which the accused acted for the benefit of the person with mental incapacity or made a good faith effort to assist such person with the management of his money or other thing of value.

D. As used in this section, "mental incapacity" means that condition of a person existing at the time of the offense described in subsection A that prevents him from understanding the nature or consequences of the transaction or disposition of money or other thing of value involved in such offense.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CRIMINAL – SUMMARY ONLY

HB1562 and SB828 - §3.2-6540 - **Control of dangerous and vicious dogs; penalties.** Authorizes an animal control officer or law-enforcement officer to apply to a magistrate for a summons where the officer believes that the owner of a vicious dog has willfully failed to comply with the law. When the owner of a dangerous dog has willfully failed to comply with the law, the bill authorizes an officer to confine the dog. The bill also clarifies the distinctions between dangerous dogs and vicious dogs, requires the owner of either type of dog to provide basic care while confining the animal, and authorizes a court to order the owner to pay for the care of a dangerous or vicious dog while it is in state custody. This bill is identical to [SB 828](#).

HB1870 - § 19.2-215.1 - **Criminal procedure; functions of multijurisdiction grand jury.** Adds the offense of receiving money for procuring a person to the list of offenses that a multijurisdiction grand jury can investigate. This allows such a jury to investigate human trafficking activities

SB938 - § 19.2-215.1 - **Multijurisdiction grand jury.** Adds to the criminal violations that a multijurisdiction grand jury may investigate the following: crimes by mobs, malicious felonious assault and malicious bodily woundings, robbery, carjacking, felonious sexual assault, certain arsons, and RICO crimes. The bill also adds a provision that, in order for the grand jury to report a matter for prosecution, a court reporter must have transcribed oral testimony as required by law.

HB2248 - § 19.2-215.1 - **Money laundering investigations by multijurisdiction grand jury.** Adds investigations of money laundering violations to the jurisdiction of multijurisdiction grand juries.

SB1166 - § 33.1-346 - **Littering and illegal dumping; community service.** Provides that when a person is convicted of illegally dumping or disposing of garbage or refuse on public property or on private property without the permission of the owner, the court may order a mandatory minimum of 10 hours of community service.

HB2136 - § 54.1-3450 - **Adding methasterone and prostanazol to Schedule III.** Adds methasterone and prostanazol to Schedule III.

HB1672 - § 8.01-225 - **Naloxone; administration in cases of opiate overdose.** Allows a person to obtain a prescription for and to possess and administer naloxone to a family member or friend for the purpose of counteracting the effects of opiate overdose. The bill also requires the Department of Behavioral Health and Developmental Services to work together with the Department of Health, Department of Health Professions, law-enforcement agencies, substance abuse recovery support organizations, and other stakeholders to conduct pilot programs on the administration of naloxone to counteract the effects of opiate overdose. The bill requires the Department of Behavioral Health and Developmental Services to report on such pilot programs to the General Assembly by December 1, 2014.

HB1806 - § 18.2-248 - **Substances used to manufacture methamphetamine.** Adds ammonium nitrate to the list of substances of which the possession of two or more with the intent to manufacture methamphetamine is punishable as a Class 6 felony. The bill also strikes "metal" from the term "lithium metal."

HB1929 - § 29.1-529 - **Deer kill permits.** Authorizes the chief law-enforcement officer of a town to report to the Director of the Department of Game and Inland Fisheries that deer are creating a traffic hazard in the jurisdiction. If after an investigation the Director finds that such a hazard exists, he may authorize responsible persons, or their representatives, to kill the deer.

HB1684 and SB1010 - § 18.2-186.3 - **Identity theft; penalties.** Raises the punishment for identity theft where five or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence from a Class 6 to a Class 5 felony and raises the punishment for identity theft where 50 or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence from a Class 5 to a Class 4 felony. A violation resulting in the arrest and detention of the victim is raised from a Class 6 to a Class 5 felony. This bill is identical to [SB 1010](#).

HB1746 and SB1214 - § 17.1-805 - **Sentencing guidelines; definition of violent felony.** Adds to the list of violent felonies: killing of a fetus, criminal street gang recruitment using force, strangulation of another, assault and battery when it is a hate crime, felony violation of a protective order, felony infected sexual battery, manufacture bombs, willfully discharging a firearm in a public place resulting in bodily injury, brandishing a machete or other bladed weapon near a school, wearing body armor while committing certain crimes, display of grooming video to child, cross burning, burning object with intent to intimidate, placing a swastika with intent to intimidate, displaying noose with intent to intimidate, treason, escape of sexually violent predator, and unauthorized dissemination of fusion center information resulting in death or serious bodily injury. When an offense falls under the definition of violent felony, sentencing ranges are increased, punishment is statutorily enhanced for certain other offenses, eligibility for participation in a drug treatment court is restricted, there is a presumption against bail for persons illegally present in the United States, the definition of victim for the purpose of compensation of crime victims by the Criminal Injuries Compensation Fund is expanded, registration of tow truck drivers is prohibited, and restoration of voting rights is limited. This bill is identical to [SB 1214](#).

HB2266 - § 19.2-66 - **Interception of communications; sheriffs.** Provides that the Attorney General may apply for authorization for the observation or monitoring by a sheriff's office of an interception of communications; under existing law the same may be done for a police department of a county or city or for U.S. law-enforcement officers. This bill is identical to [SB 1373](#).

HB1981 - § 18.2-60.5 - **Use of electronic tracking devices; penalty.** Provides that any person who installs or places an electronic tracking device through intentionally deceptive means and without consent and uses it to track the location of another person is guilty of a Class 3 misdemeanor. The bill includes exceptions.

SB997 and HB2122 - § 63.2-1606.1 - **Photographs of abused, incapacitated adult.** Provides that in any case of suspected abuse of an incapacitated adult, photographs, X-rays, and other medical imaging of such incapacitated adult may be taken without the consent of the person responsible for the incapacitated adult as a part of the medical evaluation of the person. Such photographs, X-rays, and other medical imaging may be introduced into evidence in any civil or criminal proceeding. This bill is identical to [HB 2122](#).

HB2193 - § 63.2-1505 - **Child abuse investigations; employees of school divisions.** Expands the class of individuals whom a local department of social services must report to a local school board upon determination that a complaint alleging that such individual has committed child abuse or neglect is a founded complaint from any full-time, part-time, permanent, or temporary teacher to any full-time, part-time, permanent, or temporary employee of a school division.

HB2294 - § 18.2-64.2 - **Carnal knowledge of an inmate; expansion to include defendants on bond.** Provides that an accused is guilty of carnal knowledge of a pretrial defendant or posttrial offender if he (i) is an owner or employee of the bail bond company that posted the pretrial defendant's or posttrial offender's bond, (ii) has the authority to revoke the pretrial defendant's or posttrial offender's bond, and (iii) carnally knows, without use of force, threat, or intimidation, a pretrial defendant or posttrial offender. Such offense is a Class 1 misdemeanor

SB969 - § 18.2-345 - **Lewd and lascivious cohabitation.** Eliminates by repeal the crime of lewd and lascivious cohabitation by unmarried persons and the crime of open and gross lewdness and lasciviousness.

SB1376 - § 8.01-47 - **Civil immunity for certain persons; incidents on school property.** Provides that any person who, in good faith and without malice, reports, investigates, or causes an investigation to be made into the activities of any person relating to conduct involving bomb threats or other explosives or alcohol or drug use at a school or institution of higher learning or in connection with a school or institution activity shall be immune from all civil liability that might be incurred as a result of making such a report or investigation. Currently, only certain school and institution personnel enjoy such immunity. The bill also provides that any person is likewise immune if he, in good faith and without malice, reports, investigates, or causes an investigation to be made into information that any person poses a credible danger of serious bodily injury or death to any other person on school property.

HB2065 - § 18.2-48.1 - **Correctional centers; adult and juvenile; penalties.** For selected offenses, imposes the same penalties for offenses committed by persons confined in a juvenile correctional center as currently exist for adult prisoners. Persons who deliver certain items to committed juveniles or allow their escape will face penalties comparable to the same conduct involving adult prisoners. The bill makes it a Class 6 felony, with a six-month mandatory minimum term of confinement, to assault persons directly involved in the care, treatment, or supervision of persons in the custody of the Department of Corrections engaged in the performance of public duties; under current law this provision applies to employees of the Department of Corrections.

SB1033 - § 18.2-48.1 - **Correctional centers; adult and juvenile; penalties.** For selected offenses, imposes the same penalties for offenses committed by persons confined in a juvenile correctional center as currently exist for adult prisoners. Persons who deliver certain items to committed juveniles or allow their escape will face penalties comparable to the same conduct involving adult prisoners. The bill makes it a Class 6 felony, with a six-month mandatory minimum term of confinement, to assault persons directly involved in the care, treatment, or supervision of persons in the custody of the Department of Corrections engaged in the performance of public duties; under current law this provision applies to employees of the Department of Corrections. Assault of persons directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice and employees or other individuals who provide control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services who are engaged in the performance of public duties will also be subject to the enhanced penalty provision of the assault and battery statute.

HB1763 - § 19.2-72 - **Officer may execute a warrant in his jail.** Authorizes a jail officer employed at a regional jail or jail farm to execute upon a person being held in his jail a warrant, capias, or summons issued anywhere in the Commonwealth. Currently only a person with law-enforcement power may do so.

FIREARMS – FULL TEXT

Sale and transport for sale of firearms to certain persons; penalty. Provides that a person who engages in the "strawman" purchase of a firearm, where he purchases a firearm with the intent to resell or transport with the intent to resell outside of the Commonwealth to any person he knows is prohibited from purchasing a firearm, is guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of one year. Under current law, the penalty for such an offense is a Class 5 felony. Finally, the bill provides that a person who is ineligible to purchase or possess a firearm and who assists any other person in the strawman purchase of a firearm is guilty of a Class 4 felony with a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence. Under current law, the penalty for such offense is a Class 5 felony with a mandatory minimum term of five years. The prohibitions against strawman purchases do not apply to the purchase of a firearm by a parent, grandparent, or other guardian of a child for the lawful use, possession, or transport of the firearm by the child where the child's age is the sole reason the child is ineligible to purchase a firearm. The bill also adds persons found legally incompetent or mentally incapacitated, persons involuntarily admitted to a mental health facility or sent for involuntary outpatient mental health treatment, and those who were the subject of a temporary detention order and subsequently agreed to voluntary admission to a mental health facility to the list of persons for whom it is illegal to sell, barter, give, or furnish a firearm if the seller knows that the person is prohibited from possessing or transporting a firearm and increases the penalty from a Class 6 felony to a Class 4 felony.

CHAPTER 797

An Act to amend and reenact §§ [18.2-308.2:1](#) and [18.2-308.2:2](#) of the Code of Virginia, relating to the sale or transport for sale of firearms on behalf of or to certain persons; penalty.

[S 1378]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-308.2:1](#) and [18.2-308.2:2](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-308.2:1](#). Prohibiting the selling, etc., of firearms to certain persons.

Any person who sells, barter, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § [18.2-308.1:1](#), [18.2-308.1:2](#), [18.2-308.1:3](#), [18.2-308.2](#), subsection B of § [18.2-308.2:01](#), or § [18.2-308.7](#) shall be guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § [18.2-308.2](#) or been granted relief pursuant to subsection B of § [18.2-308.1:1](#), or § [18.2-308.1:2](#) or [18.2-308.1:3](#) (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § [18.2-308.2](#) or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

§ [18.2-308.2:2](#). Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the

applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § [18.2-308.1:1](#) or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § [18.2-308.1:2](#) or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § [18.2-308.1:3](#) or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense, and other documentation of residence. Except where the photo-identification was issued by the United States Department of Defense, the other documentation of residence shall show an address identical to that shown on the photo-identification form, such as evidence of currently paid personal property tax or real estate tax, or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; other current identification allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and ATF Ruling [2001-5](#); or other documentation of residence determined to be acceptable by the Department of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders assigning the purchaser to a duty post in Virginia, including the Pentagon, shall be the only other required documentation of residence. For the purposes of this section and establishment of residency for firearm purchase, residency shall be deemed to be the permanent duty post of a member of the armed forces. When the photo-identification presented to a dealer by the prospective purchaser is a driver's license or other photo-identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo-identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence. To establish citizenship or lawful admission for a permanent residence for purposes of purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth certificate or a certificate of birth abroad issued by the United States State Department, a certificate of citizenship or a certificate of naturalization issued by the United States Citizenship and Immigration Services, an unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a current selective service registration card, or an immigrant visa or other documentation of status as a person lawfully admitted for permanent residence issued by the United States Citizenship and Immigration Services.

Upon receipt of the request for a criminal history record information check, the State Police shall (1) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (2) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (3) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request, or by return call without delay. If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, the State Police shall have until the end of

the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision 1 may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § [9.1-132](#), the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with proof of citizenship or status as a person lawfully admitted for permanent residence and one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § [9.1-132](#) or institute a civil action as provided in § [9.1-135](#), provided any such action is initiated within 30 days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;
2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;
3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or
4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;
2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and
3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Chapter 17 (§ [23-232](#) et seq.) of Title 23; or (iii) antique firearms, curios or relics.

J. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J1. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of \$5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § [18.2-308.2:1](#), any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § [9.1-101](#), in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class-~~5~~ 4 felony *and sentenced to a mandatory minimum term of imprisonment of one year.*

However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. *The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § [18.2-308.7](#), by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.*

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class-~~5~~ 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. *Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.*

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

~~P. [Repealed.]~~

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$46,773 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Reorganizing and recodifying the law related to carrying concealed weapons and concealed handgun permits. Reorganizes the existing § 18.2-308 into a new Article 6.1 in Chapter 7 of Title 18.2. The new article creates separate, discrete sections to address the general criminal prohibition against carrying concealed weapons; the requirements for applying for a concealed handgun permit; the process the circuit court follows in reviewing, issuing, and denying permits; the appeals process procedures for nonresidents to obtain permits; the renewal process disqualifications; and other procedural issues currently addressed in § 18.2-308. The bill also contains numerous technical amendments. This bill does not make any substantive changes to existing law.

CHAPTER 746

An Act to amend and reenact §§ [16.1-260](#), [17.1-406](#), [18.2-57.3](#), [18.2-287.01](#), [18.2-308](#), [18.2-311](#), [19.2-83.1](#), [19.2-120.1](#), [19.2-386.27](#), [19.2-386.28](#), and [24.2-643](#) of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 7 of Title 18.2 an article numbered 6.1, consisting of sections numbered [18.2-307.1](#), and [18.2-308.01](#) through [18.2-308.015](#), relating to reorganizing and recodifying the law related to carrying concealed weapons and concealed handgun permits.

[H 1833]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [16.1-260](#), [17.1-406](#), [18.2-57.3](#), [18.2-287.01](#), [18.2-308](#), [18.2-311](#), [19.2-83.1](#), [19.2-120.1](#), [19.2-386.27](#), [19.2-386.28](#), and [24.2-643](#) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 18.2 an article numbered 6.1, consisting of sections numbered [18.2-307.1](#), and [18.2-308.01](#) through [18.2-308.015](#), as follows:

§ [16.1-260](#). Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § [16.1-259](#). The form and content of the petition shall be as provided in § [16.1-262](#). No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ [63.2-1500](#) et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § [19.2-3.1](#).

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § [16.1-241](#), the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § [22.1-258](#) and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § [22.1-258](#), then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan. The intake officer may proceed informally only if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance as provided in § [22.1-254](#). The juvenile and his parent or parents, guardian or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian or other person standing in loco parentis participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § [22.1-254](#). The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § [2.2-5207](#). If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § [16.1-241](#) will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § [16.1-253.1](#), [16.1-253.4](#), or [16.1-279.1](#), or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § [19.2-152.8](#), [19.2-152.9](#), or [19.2-152.10](#), and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § [16.1-253.1](#), [16.1-253.4](#), or [16.1-279.1](#) a written explanation of the conditions,

procedures and time limits applicable to the issuance of protective orders pursuant to § [16.1-253.1](#), [16.1-253.4](#), or [16.1-279.1](#). If the person is seeking a protective order pursuant to § [19.2-152.8](#), [19.2-152.9](#), or [19.2-152.10](#), the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § [19.2-152.8](#), [19.2-152.9](#), or [19.2-152.10](#).

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § [16.1-248.1](#) have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § [16.1-256](#), the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ [16.1-299](#) et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ [18.2-279](#) et seq.), 5 (§ [18.2-288](#) et seq.), 6 (§ [18.2-299](#) et seq.), 6.1 (§ [18.2-307.1](#) et seq.), or 7 (§ [18.2-308](#) [18.2-308.1](#) et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ [18.2-30](#) et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana or synthetic cannabinoids pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ [18.2-89](#) through [18.2-93](#);
9. Robbery pursuant to § [18.2-58](#);
10. Prohibited criminal street gang activity pursuant to § [18.2-46.2](#);
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § [18.2-46.3](#); or
12. An act of violence by a mob pursuant to § [18.2-42.1](#).

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § [16.1-305.2](#).

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § [16.1-241](#).

3. In the case of a misdemeanor violation of § [18.2-250.1](#), [18.2-266](#), [18.2-266.1](#), or [29.1-738](#), or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § [16.1-278.8](#), [16.1-278.8:01](#), or [16.1-278.9](#). If the juvenile so charged with a violation of § [18.2-51.4](#), [18.2-266](#), [18.2-266.1](#), [18.2-272](#), or [29.1-738](#) refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ [18.2-268.1](#) through [18.2-268.12](#) or [29.1-738.2](#), the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § [18.2-250.1](#) is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § [18.2-250.1](#) is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § [16.1-237](#) on a summons issued by the officer investigating the violation in the same manner as provided by law for adults

provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § [16.1-241](#).

§ [17.1-406](#). Petitions for appeal; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may present a petition for appeal to the Court of Appeals from (i) any final conviction in a circuit court of a traffic infraction or a crime, except where a sentence of death has been imposed, (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to ~~subsection D of § 18.2-308~~ [Article 6.1 \(§ 18.2-307.1 et seq.\) of Chapter 7 of Title 18.2](#), (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § [53.1-40.1](#), or (iv) any final order for declaratory or injunctive relief under § [57-2.02](#). The Commonwealth or any county, city or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § [19.2-317](#). The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § [19.2-398](#).

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a conviction in which a sentence of death is imposed, from a final decision, judgment or order of a circuit court involving a petition for a writ of habeas corpus, from any final finding, decision, order, or judgment of the State Corporation Commission, and from proceedings under §§ [54.1-3935](#) and [54.1-3937](#). Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ [18.2-57.3](#). Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.

A. When a person is charged with a violation of § [18.2-57.2](#), the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense, (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to assault and battery against a family or household member, (iii) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, (iv) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, a violation of § [18.2-57.2](#), and (v) the person consents to such deferral.

C. The court may (i) where a local community-based probation services agency established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs or services, or any combination thereof indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment or education services are available; or (ii) require successful completion of treatment, education programs or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.

E. Upon fulfillment of the terms and conditions specified in the court order, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § [19.2-392.2](#).

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § [18.2-308](#) Article 6.1 (§ [18.2-307.1](#) et seq.) of Chapter 7.

§ [18.2-287.01](#). Carrying weapon in air carrier airport terminal.

It shall be unlawful for any person to possess or transport into any air carrier airport terminal in the Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon, and (iii) any other dangerous weapon, including explosives, stun weapons as defined in § [18.2-308.1](#), and those weapons specified in subsection A of § [18.2-308](#). Any such weapon shall be subject to seizure by a law-enforcement officer. A violation of this section is punishable as a Class 1 misdemeanor. Any weapon possessed or transported in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in ~~subsection A of § [18.2-308](#)~~ § [19.2-386.28](#).

The provisions of this section shall not apply to any police officer, sheriff, law-enforcement agent or official, or conservation police officer, or conservator of the peace employed by the air carrier airport, nor shall the provisions of this section apply to any passenger of an airline who, to the extent otherwise permitted by law, transports a lawful firearm, weapon, or ammunition into or out of an air carrier airport terminal for the sole purposes, respectively, of (i) presenting such firearm, weapon, or ammunition to U.S. Customs agents in advance of an international flight, in order to comply with federal law, (ii) checking such firearm, weapon, or ammunition with his luggage, or (iii) retrieving such firearm, weapon, or ammunition from the baggage claim area.

Any other statute, rule, regulation, or ordinance specifically addressing the possession or transportation of weapons in any airport in the Commonwealth shall be invalid, and this section shall control.

Article 6.1.

Concealed Weapons and Concealed Handgun Permits.

§ [18.2-307.1](#). Definitions.

As used in this article, unless the context requires a different meaning:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made, and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § [9.1-101](#), law-enforcement agents of the armed forces of the United States and the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" also means any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § [9.1-101](#).

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

"Spring stick" means a spring-loaded metal stick activated by pushing a button that rapidly and forcefully telescopes the weapon to several times its original length.

§ [18.2-308](#). Carrying concealed weapons; exceptions; penalty.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, ~~he shall be~~ *is* guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

C. Except as provided in subsection ~~H~~ *A* of § [18.2-308.012](#), this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;
3. Any person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;
5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;
6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions,

provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, and any campus police officer appointed under Chapter 17 (§ [23-232](#) et seq.) of Title 23 retired from a campus police department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) ~~of this subdivision~~ who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) ~~of this subdivision~~ for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2.

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Board or Commission to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of ~~subsection P~~ § [18.2-308.014](#), any person granted the privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

8. Any State Police officer who is a member of the organized reserve forces of any of the armed services of the United States, national guard, or naval militia, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying the reciprocity provisions of ~~subsection P~~ § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit;

9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth;

10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel; and

11. Any enrolled participant of a firearms training course who is at, or going to or from, a training location, provided that the weapons are unloaded and securely wrapped while being transported.

~~C-D.~~ This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;

2. Officers or guards of any state correctional institution;

3. ~~[Repealed.]~~

~~4-~~Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision ~~B C~~ 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in ~~subsection D hereof~~ this article: ~~(a)-(i)~~ notaries public; ~~(b)-(ii)~~ registrars; ~~(c)-(iii)~~ drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or ~~(d)-(iv)~~ commissioners in chancery;

~~5-4.~~ Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

~~6-5.~~ Harbormaster of the City of Hopewell.

~~D.~~ Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. No information or documentation other than that which is allowed on the application in accordance with this subsection may be requested or required by the clerk or the court. The clerk shall enter on the application the date on which the application and all other information

required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. The court shall issue the permit via United States mail and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § [18.2-308.1:1](#), [18.2-308.1:2](#) or [18.2-308.1:3](#) or the substantially similar law of any other state or of the United States.
2. An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:1](#) and who was discharged from the custody of the Commissioner pursuant to § [19.2-182.7](#) less than five years before the date of his application for a concealed handgun permit.
3. (Effective until October 1, 2012) An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:2](#) and whose competency or capacity was restored pursuant to § [37.2-1012](#) less than five years before the date of his application for a concealed handgun permit.
3. (Effective October 1, 2012) An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:2](#) and whose competency or capacity was restored pursuant to § [64.2-2012](#) less than five years before the date of his application for a concealed handgun permit.
4. An individual who was ineligible to possess a firearm under § [18.2-308.1:3](#) and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

~~5. An individual who is subject to a restraining order, or to a protective order and prohibited by § [18.2-308.1:4](#) from purchasing or transporting a firearm.~~

~~6. An individual who is prohibited by § [18.2-308.2](#) from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.~~

~~7. An individual who has been convicted of two or more misdemeanors within the five year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.~~

~~8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.~~

~~9. An individual who has been convicted of a violation of § [18.2-266](#) or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § [4.1-333](#).~~

~~10. An alien other than an alien lawfully admitted for permanent residence in the United States.~~

~~11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.~~

~~12. An individual who is a fugitive from justice.~~

~~13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.~~

~~14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § [18.2-280](#) or [18.2-286.1](#) or brandishing of a firearm in violation of § [18.2-282](#) within the three year period immediately preceding the application.~~

~~15. An individual who has been convicted of stalking.~~

~~16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."~~

~~17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.~~

~~18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.~~

~~19. An individual not otherwise ineligible pursuant to this section, who, within the three year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.~~

~~20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § [18.2-251](#) or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.~~

~~F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § [18.2-434](#).~~

~~G. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:~~

~~1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;~~

~~2. Completing any National Rifle Association firearms safety or training course;~~

~~3. Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;~~

~~4. Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;~~

~~5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;~~

~~6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;~~

~~7. Completing any firearms training or safety course or class, including an electronic, video, or on line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;~~

~~8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or~~

~~9. Completing any other firearms training which the court deems adequate.~~

~~A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.~~

H. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law enforcement officer. Failure to display the permit and a photo identification upon demand by a law enforcement officer shall be punishable by a \$25 civil penalty, which shall be paid into the state treasury. Any attorney for the Commonwealth of the county or city in which the alleged violation occurred may bring an action to recover the civil penalty. A court may waive such penalty upon presentation to the court of a valid permit and a government issued photo identification. Any law enforcement officer may issue a summons for the civil violation of failure to display the concealed handgun permit and photo identification upon demand.

H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United States, or the Armed Forces reserves of the United States, and his five year permit expires during an active duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

I. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, and upon receipt by the circuit court of criminal history record information as provided in subsection D, a new five year permit unless it is found that the applicant is subject to any of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new five year permit pursuant to this subsection, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K is incorrect. If the new five year permit is issued while an existing permit remains valid, the new five year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit, including, if applicable, any reason under subsection E which is the basis of the denial. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § [18.2-36.1](#), maiming in violation of § [18.2-51.4](#);

~~driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.~~

~~J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E-14 or E-15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.~~

~~J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law enforcement officer.~~

~~J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.~~

~~K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law enforcement agencies. The local law enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law enforcement agency, officer, or authorized agent thereof acting in the performance of official law enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law enforcement agency for the purpose of performing official duties of the law enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P-1;~~

or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who receives the application for the replacement permit.

K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost or destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement, and may charge a fee not to exceed \$5.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § [17.1-410](#), the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Law enforcement officer" means those individuals defined as a law enforcement officer in § [9.1-101](#), law enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law enforcement officer" shall also mean any sworn full time law enforcement officer employed by a law enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § [9.1-101](#).

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law enforcement officer or prosecutor through the performance of his official duties.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring operated mechanism.

"Spring stick" means a spring loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

~~O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.~~

~~P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.~~

~~P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to the provisions of this subsection.~~

~~The applicant shall demonstrate competence with a handgun by one of the following:~~

- ~~1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;~~
- ~~2. Completing any National Rifle Association firearms safety or training course;~~
- ~~3. Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;~~
- ~~4. Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;~~
- ~~5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;~~

~~6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;~~

~~7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;~~

~~8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or~~

~~9. Completing any other firearms training that the Virginia Department of State Police deems adequate.~~

~~A photocopy of a certificate of completion of any such course or class, an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.~~

~~The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law enforcement personnel accessing the Network for investigative purposes.~~

~~The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law enforcement officer.~~

~~The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.~~

~~Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.~~

~~R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government issued law enforcement identification card issued to an active duty law enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.~~

~~S. For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this section, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.~~

§ [18.2-308.01](#). *Carrying a concealed handgun with a permit.*

A. The prohibition against carrying a concealed handgun in clause (i) of subsection A of § [18.2-308](#) shall not apply to a person who has a valid concealed handgun permit issued pursuant to this article. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo identification issued by a government agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport) upon demand by a law-enforcement officer. A person to whom a nonresident permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer. A person whose permit is extended due to deployment shall carry with him and display, upon request of a law-enforcement officer, a copy of the documents required by subsection B of § [18.2-308.010](#).

B. Failure to display the permit and a photo identification upon demand by a law-enforcement officer shall be punishable by a \$25 civil penalty, which shall be paid into the state treasury. Any attorney for the Commonwealth of the county or city in which the alleged violation occurred may bring an action to recover the civil penalty. A court may waive such penalty upon presentation to the court of a valid permit and a government-issued photo identification. Any law-enforcement officer may issue a summons for the civil violation of failure to display the concealed handgun permit and photo identification upon demand.

C. The granting of a concealed handgun permit pursuant to this article shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

§ [18.2-308.02](#). Application for a concealed handgun permit; Virginia resident or domiciliary.

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States armed forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

- 1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;*
- 2. Completing any National Rifle Association firearms safety or training course;*
- 3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;*
- 4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;*
- 5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;*

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § [18.2-434](#).

D. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § [18.2-308.03](#), is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

§ [18.2-308.03](#). Fees for concealed handgun permits.

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in

clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55.

§ [18.2-308.04](#). Processing of the application and issuance of a concealed handgun permit.

A. The clerk of court shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received.

B. Upon receipt of the completed application, the court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange.

C. The court shall issue the permit via United States mail and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall be in accordance with § [18.2-308.08](#). If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked.

D. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which application there are no outstanding questions or issues. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010.

E. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police.

§ [18.2-308.05](#). Issuance of a de facto permit.

If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection A of § [18.2-308.01](#), until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit.

§ [18.2-308.06](#). Nonresident concealed handgun permits.

A. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central

Criminal Records Exchange to the U.S. Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsection C of § [18.2-308.02](#) and § [18.2-308.09](#) shall apply, mutatis mutandis, to the provisions of this subsection.

B. The applicant shall demonstrate competence with a handgun by one of the following:

- 1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;*
- 2. Completing any National Rifle Association firearms safety or training course;*
- 3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;*
- 4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;*
- 5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;*
- 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;*
- 7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;*
- 8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or*
- 9. Completing any other firearms training that the Virginia Department of State Police deems adequate.*

A photocopy of a certificate of completion of any such course or class; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

C. The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program.

D. The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the

Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date.

E. The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

§ [18.2-308.07](#). Entry of information into the Virginia Criminal Information Network.

A. An order issuing a concealed handgun permit pursuant to § [18.2-308.04](#), or the copy of the permit application certified by the clerk as a de facto permit pursuant to § [18.2-308.05](#), shall be provided to the State Police and the law-enforcement agencies of the county or city by the clerk of the court. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes.

B. The Department of State Police shall enter the name and description of a person issued a nonresident permit pursuant to § [18.2-308.06](#) in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

C. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (i) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to § [18.2-308.06](#) or (ii) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

§ [18.2-308.08](#). Denial of a concealed handgun permit; appeal.

A. Only a circuit court judge may deny issuance of a concealed handgun permit to a Virginia resident or domiciliary who has applied for a permit pursuant to § [18.2-308.04](#). Any order denying issuance of a concealed handgun permit shall state the basis for the denial of the permit, including, if applicable, any reason under § [18.2-308.09](#) that is the basis of the denial, and the clerk shall provide notice, in writing, upon denial of the application, of the applicant's right to an ore tenus hearing and the requirements for perfecting an appeal of such order.

B. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

C. Any person denied a permit to carry a concealed handgun by the circuit court may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § [17.1-410](#), the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

§ [18.2-308.09](#). Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

- 1. An individual who is ineligible to possess a firearm pursuant to § [18.2-308.1:1](#), [18.2-308.1:2](#), or [18.2-308.1:3](#) or the substantially similar law of any other state or of the United States.*
- 2. An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:1](#) and who was discharged from the custody of the Commissioner pursuant to § [19.2-182.7](#) less than five years before the date of his application for a concealed handgun permit.*
- 3. (Effective until October 1, 2012) An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:2](#) and whose competency or capacity was restored pursuant to § [37.2-1012](#) less than five years before the date of his application for a concealed handgun permit.*
- 3. (Effective October 1, 2012) An individual who was ineligible to possess a firearm pursuant to § [18.2-308.1:2](#) and whose competency or capacity was restored pursuant to § [64.2-2012](#) less than five years before the date of his application for a concealed handgun permit.*
- 4. An individual who was ineligible to possess a firearm under § [18.2-308.1:3](#) and who was released from commitment less than five years before the date of this application for a concealed handgun permit.*
- 5. An individual who is subject to a restraining order, or to a protective order and prohibited by § [18.2-308.1:4](#) from purchasing or transporting a firearm.*
- 6. An individual who is prohibited by § [18.2-308.2](#) from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.*
- 7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.*
- 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.*
- 9. An individual who has been convicted of a violation of § [18.2-266](#) or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § [4.1-333](#).*
- 10. An alien other than an alien lawfully admitted for permanent residence in the United States.*
- 11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.*
- 12. An individual who is a fugitive from justice.*
- 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer,*

or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § [18.2-280](#) or [18.2-286.1](#) or brandishing of a firearm in violation of § [18.2-282](#) within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ [18.2-247](#) et seq.) or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ [18.2-247](#) et seq.) or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § [18.2-251](#) or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ [18.2-308.010](#). Renewal of concealed handgun permit.

A. 1. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in § [18.2-308.02](#), a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in § [18.2-308.09](#). Persons who previously have been issued a concealed handgun permit pursuant to this article shall not be required to appear in person to apply for a new five-year permit pursuant to this section, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to § [18.2-308.03](#) is incorrect.

2. If a new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit.

3. Any order denying issuance of the new permit shall be in accordance with subsection A of § [18.2-308.08](#).

B. If a permit holder is a member of the Virginia National Guard, armed forces of the United States, or the Armed Forces Reserves of the United States, and his five-year permit expires during an active-duty military

deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

§ [18.2-308.011](#). Replacement permits.

A. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who receives the information for the replacement permit.

B. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost or destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement, and may charge a fee not to exceed \$5.

§ [18.2-308.012](#). Prohibited conduct.

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § [18.2-36.1](#), maiming in violation of § [18.2-51.4](#), driving while intoxicated in violation of § [18.2-266](#), public intoxication in violation of § [18.2-388](#), or driving while intoxicated in violation of § [46.2-341.24](#). Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § [4.1-100](#) for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

§ [18.2-308.013](#). Suspension or revocation of permit.

A. Any person convicted of an offense that would disqualify that person from obtaining a permit under § [18.2-308.09](#) or who violates subsection C of § [18.2-308.02](#) shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction, or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under § [18.2-308.09](#), the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction, or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

B. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15 of § [18.2-308.09](#), holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

C. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess, or transport a firearm under § [18.2-308.1:2](#) or [18.2-308.1:3](#), and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

§ [18.2-308.014](#). Reciprocity.

A. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this article. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this subsection, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.

B. A valid concealed handgun permit issued by Maryland shall be valid in the Commonwealth, provided (i) the holder of the permit is licensed in Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ [54.1-900](#) et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.

C. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this article shall be deemed a concealed handgun permit.

§ [18.2-308.015](#). Inclusion of Supreme Court website on application.

For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this article, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.

§ [18.2-311](#). Prohibiting the selling or having in possession blackjacks, etc.

If any person sells or barter, or exhibits for sale or for barter, or gives or furnishes, or causes to be sold, bartered, given or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, any disc of whatever configuration having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, switchblade knife, ballistic knife as defined in § [18.2-307.1](#), or like weapons, such person shall be guilty of a Class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give or furnish the same.

§ [19.2-83.1](#). Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the

employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § [22.1-296.2](#) and § [22.1-315](#).

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ [18.2-279](#) et seq.), 5 (§ [18.2-288](#) et seq.), 6 (§ [18.2-299](#) et seq.), 6.1 (§ [18.2-307.1](#) et seq.), or 7 (§ [18.2-308-18.2-308.1](#) et seq.) of Chapter 7 of Title 18.2;
 2. Homicide, pursuant to Article 1 (§ [18.2-30](#) et seq.) of Chapter 4 of Title 18.2;
 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2;
 4. Criminal sexual assault, pursuant to Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2;
 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
 6. Manufacture, sale or distribution of marijuana or synthetic cannabinoids pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
 7. Arson and related crimes, pursuant to Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2;
 8. Burglary and related offenses, pursuant to §§ [18.2-89](#) through [18.2-93](#);
 9. Robbery pursuant to § [18.2-58](#);
 10. Prohibited criminal street gang activity pursuant to § [18.2-46.2](#); or
 11. Recruitment of juveniles for criminal street gang pursuant to § [18.2-46.3](#).
- § [19.2-120.1](#). Presumption of no bail for illegal aliens charged with certain crimes.

A. In addition to the presumption against the admission to bail under subsection B of § [19.2-120](#), the judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if (i) the person is currently charged with an offense listed in subsection A of § [19.2-297.1](#), subsection C of § [17.1-805](#), any offense under Chapter 4 (§ [18.2-30](#) et seq.) of Title 18.2 except any offense under subsection A of § [18.2-57.2](#), any felony offense under Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2, or any offense under Article 2 (§ [18.2-266](#) et seq.), or any local ordinance substantially similar thereto, 4 (§ [18.2-279](#) et seq.), 5 (§ [18.2-288](#) et seq.), 6 (§ [18.2-299](#) et seq.), 6.1 (§ [18.2-307.1](#) et seq.), or 7 (§ [18.2-308-18.2-308.1](#) et seq.) of Chapter 7 of Title 18.2, and (ii) the person has been identified as being illegally present in the United States by the United States Immigration and Customs Enforcement.

B. Notwithstanding subsection A, no presumption shall exist under this section as to any misdemeanor offense, or any felony offense under Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2, unless the United States Immigration and Customs Enforcement has guaranteed that, in all such cases in the Commonwealth, it will issue a detainer for the initiation of removal proceedings and agree to reimburse for the cost of incarceration from the time of the issuance of the detainer.

§ [19.2-386.27](#). Forfeiture of firearms carried in violation of Article 6.1 (§ [18.2-307.1](#) et seq.).

Any weapon used in the commission of a violation of § [18.2-308](#)-Article 6.1 (§ [18.2-307.1](#) et seq.) of Chapter 7 of Title 18.2 shall be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the Department of Forensic Science shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in § [19.2-386.29](#).

§ [19.2-386.28](#). Forfeiture of weapons that are concealed, possessed, transported or carried in violation of law.

Any firearm, stun weapon as defined by § [18.2-308.1](#), or any weapon concealed, possessed, transported or carried in violation of §§ [18.2-283.1](#), [18.2-287.01](#), [18.2-287.4](#), [18.2-308.1:2](#), [18.2-308.1:3](#), [18.2-308.1:4](#), [18.2-308.2](#), [18.2-308.2:01](#), [18.2-308.2:1](#), [18.2-308.4](#), [18.2-308.5](#), [18.2-308.7](#), or § [18.2-308.8](#) shall be forfeited to the Commonwealth and disposed of as provided in § [19.2-386.29](#).

§ [24.2-643](#). Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, his concealed handgun permit issued pursuant to § [18.2-308](#) [18.2-308.04](#), or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card issued by any institution of higher education located in the Commonwealth of Virginia; any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business; or a copy of a current utility bill, bank statement, government check, or paycheck that shows the name and address of the voter.

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § [24.2-1016](#), which the officer of election shall then place in an envelope provided for such forms for

transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ [24.2-400](#) et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). Neither the identification requirements of subsection B, nor the identification requirements of subsection A of § [24.2-653](#), shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) and this section.

2. That the provisions of this act are declaratory of existing law.

FIREARMS – SUMMARY ONLY

SB1335 - § 18.2-308 - **Nondisclosure of concealed handgun permit information.** Prohibits the clerk of a circuit court who issued a concealed handgun permit from publicly disclosing an applicant's name and any **other** information contained in a concealed handgun permit application or in any order issuing a concealed handgun permit.

HB1679 - § 18.2-308 - **Concealed handgun permit; retired investigator of the State Lottery Department; exception.** Provides an exception for a concealed handgun permit for a qualifying retired investigator of the security division of the State Lottery Department. The bill contains technical amendments.

HB2317 and SB1363 - § 18.2-308.2:2 - **Transfer of firearms; residency of armed forces members.** Provides that residency for members of the armed forces for the purpose of firearms purchases in the Commonwealth shall include both the member's permanent duty post and the nearby state in which the member resides and from which he commutes to the permanent duty post. This bill is identical to [SB 1363](#).

HB1506 - § 59.1-148.3 - **Purchase of service firearms; minimum years of service.** Reduces from 15 years to 10 years the minimum number of years that certain officers must serve in order to qualify to purchase their service handguns.

SB703 - § 18.2-308 - **Concealed handgun permit fees; correctional officers; exemption.** Provides an exemption for any retired correctional officer with at least 15 years of service from any fee charged for the issuance of a concealed handgun permit. The bill contains technical amendments.

MISCELLANEOUS – FULL TEXT

Department of State Police; crash reports maintained by the Department. Provides that the Department of State Police may retain certain automobile accident reports and furnish copies of such reports in either hard copy or electronic form. Under current law, the Department must retain such reports only in hard copy form. This bill is identical to [SB 948](#).

CHAPTER 80

An Act to amend and reenact § [46.2-380](#) of the Code of Virginia, relating to the Department of State Police; crash reports maintained by the Department.

[H 1830]

Approved March 5, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-380](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-380](#). Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.

A. Any report of an accident made pursuant to §§ [46.2-372](#), [46.2-373](#), [46.2-375](#), or § [46.2-377](#) shall be maintained by the Department *in either hard copy or electronic form* for a period of at least ~~thirty-six~~ 36 months from the date of the accident and shall be open to the inspection of any person involved or injured in the accident or as a result thereof, or his attorney or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance. The Commissioner ~~or Superintendent, or the area or division offices of the Department of State Police having a copy of the report,~~ shall on written request of the person or attorney or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance, furnish a copy of the report, *in either hard copy or electronic form*, at the expense of the person, attorney, or representative. Any such report shall also be open to inspection by the personal representative of any person injured or killed in the accident, including his guardian, conservator, executor, committee, or administrator, or, if the person injured or killed is under ~~eighteen~~ 18 years ~~old of age~~, his parent or guardian. The Commissioner ~~or Superintendent~~ shall only be required to furnish under this section copies of reports required by the provisions of this article to be made directly to the Commissioner ~~or Superintendent, or to the area or division offices of the Department of State Police having a copy of any such report, as the case may be.~~ The Commissioner and the Superintendent, acting jointly, may set a reasonable fee for furnishing a copy of any report, provide to whom payment shall be made, and establish a procedure for payment. ~~Nothing contained in this section shall require any division office of the Department of State Police to furnish any copy when duplicating equipment is not available.~~

B. The Commissioner or Superintendent of State Police having a copy of any photograph taken by a law-enforcement officer relating to a nonfatal accident, shall maintain the negatives for such photographs in their records for at least ~~thirty-six~~ 36 months from the date of the accident.

Workers' compensation; injuries incurred by public safety officers. States that an injury to a public safety officer in situations where weather constitutes a particular risk of his employment shall be compensable where the injury arose out of and in the course of his employment. This bill is identical to [SB 896](#).

CHAPTER 174

An Act to amend the Code of Virginia by adding a section numbered [65.2-301.1](#) relating to workers' compensation; weather as a risk of a public safety officer's employment.

[H 1347]

Approved March 12, 2013

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [65.2-301.1](#) as follows:

§ [65.2-301.1](#). *Public safety officers.*

In situations where weather constitutes a particular risk of a public safety officer's employment and where the public safety officer's injury arose out of and in the course of his employment, absent a misconduct defense asserted pursuant to § [65.2-306](#), such injury shall be compensable under this title. As used in this section, "public safety officer" shall have the meaning ascribed to it in § [9.1-801](#).

Armed security officers; protection of schools and child day centers. Permits any armed security officers licensed by the Department of Criminal Justice Services to carry firearms onto private or religious school property if such officer is hired by the private or religious school to provide protection to students and employees. The bill also prohibits the Board of Social Services from adopting any regulations that would prevent a child day center from hiring an armed security officer.

CHAPTER 416

An Act to amend and reenact §§ [18.2-308.1](#) and [63.2-1734](#) of the Code of Virginia, relating to armed security officers; protection of schools and child day centers.

[H 1582]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-308.1](#) and [63.2-1734](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-308.1](#). Possession of firearm, stun weapon, or other weapon on school property prohibited.

A. If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § [18.2-308](#), other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

B. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he shall be guilty of a Class 6 felony.

C. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person shall be guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in § [18.2-308](#) shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; ~~or~~ (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school; or (viii) an armed security officer, licensed pursuant to Article 4 (§ [9.1-138](#) et seq.) of Chapter 1 of Title 9.1, hired by a private or religious school for the protection of students and employees as authorized by such school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

§ [63.2-1734](#). Regulations for child welfare agencies.

A. The Board shall adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation or accreditation services of any single private accreditation or certification agency.

Such regulations shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

B. The Board shall adopt or amend regulations, policies and procedures related to child day care in collaboration with the Virginia Recreation and Park Society. *No regulation adopted by the Board shall prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ [9.1-138](#) et seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or employees of the center.* The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services.

Fingerprints and photos of arrestees. Provides that a judicial officer may require as a condition of release on bail that the accused accompany the arresting officer to the jurisdiction's fingerprinting facility to have his photograph and fingerprints taken prior to his release. The bill also provides that the fingerprints and photograph may be taken wherever the magistrate is located, including at a regional jail, even though the accused is not committed to jail.

CHAPTER 614

An Act to amend and reenact §§ [19.2-123](#) and [19.2-390](#) of the Code of Virginia, relating to release on bond; fingerprints and photographs of accused.

[S 847]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [19.2-123](#) and [19.2-390](#) of the Code of Virginia are amended and reenacted as follows:

§ [19.2-123](#). Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who has previously been convicted of a felony, or who is presently on bond for an unrelated arrest in any jurisdiction, or who is on probation or parole, may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § [16.1-233](#);

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a period not to exceed 72 hours;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;

3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case;

3b. Place a prohibition on a person who holds an elected constitutional office and who is accused of a felony arising from the performance of his duties from physically returning to his constitutional office;

3c. *Require the accused to accompany the arresting officer to the jurisdiction's fingerprinting facility and submit to having his photograph and fingerprints taken prior to release; or*

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § [53.1-131.2](#) or, when the person is required to execute a secured bond, be subject to monitoring by a GPS (Global Positioning System) tracking device, or other similar device. The defendant may be ordered by the court to pay the cost of the device.

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith.

In addition, where the accused is an individual receiving services in a state training center for individuals with intellectual disability, the judicial officer may place the individual in the custody of the director of the training center, if the director agrees to accept custody. The director is hereby authorized to take custody of the individual and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § [9.1-101](#) and, in cases where a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings or revocation of release. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C. [Repealed.]

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § [16.1-247](#). If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a capias or order to show cause why the recognizance should not be revoked.

E. Nothing in this section shall be construed to prevent a court from imposing a recognizance or bond designed to secure a spousal or child support obligation pursuant to § [16.1-278.16](#), Chapter 5 (§ [20-61](#) et seq.) of Title 20, or § [20-114](#) in addition to any recognizance or bond imposed pursuant to this chapter.

§ [19.2-390](#). Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1; or

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, except an arrest for a violation of § [18.2-119](#), Article 2 (§ [18.2-415](#) et seq.) of Chapter 9 of Title 18.2, or any similar ordinance of any county, city or town, (ii) under § [20-61](#), or (iii) under § [16.1-253.2](#).

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. *Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § [19.2-123](#) may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.*

2. For persons arrested and released on summonses in accordance with § [19.2-74](#), such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § [18.2-251](#); or (iii) an acquittal by reason of insanity pursuant to § [19.2-182.2](#) is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § [19.2-92](#), the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ [52-12](#) et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § [19.2-76.1](#), the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § [53.1-149](#) or [53.1-162](#) authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ [52-12](#) et seq.) of Title 52.

C. The clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action which may have resulted from an indictment, presentment or information, and (ii) any adjudication of delinquency based upon an act which, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § [15.2-1722](#). Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § [16.1-269.1](#), whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § [9.1-902](#), the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § [19.2-76.1](#), the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal Records Exchange may receive, classify and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted

Freedom of Information Act; access to criminal and other records held by public bodies engaged in criminal law-enforcement activities. Reorganizes § 2.2-3706 of the Freedom of Information Act relating to access to criminal records and other records held by law-enforcement agencies. The only substantive changes in the bill are to (i) expand to the state law-enforcement agencies the ability to withhold portions of noncriminal incident information and (ii) allow law-enforcement agencies to make a verbal response for requests for criminal incident information. The bill also clarifies that personnel records of persons employed by a law-enforcement agency are not noncriminal records but subject to the personnel records and background investigation records exemptions. The bill contains technical amendments and is a recommendation of the Virginia Freedom of Information Advisory Council.

CHAPTER 695

An Act to amend and reenact §§ [2.2-3706](#), [2.2-3711](#), and [15.2-1713.1](#) of the Code of Virginia, relating to the Freedom of Information Act; access to criminal and other records held by public bodies engaged in criminal law-enforcement activities.

[S 1264]

Approved March 21, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ [2.2-3706](#), [2.2-3711](#), and [15.2-1713.1](#) of the Code of Virginia are amended and reenacted as follows:

§ [2.2-3706](#). Disclosure of criminal records; limitations.

A. ~~As used in this section:~~

~~"Criminal incident information" means a general description of the criminal activity reported, the date and general location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries suffered or property damaged or stolen.~~

~~"Criminal investigative file" means any documents and information including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information.~~

~~B. Law enforcement agencies shall make available upon request criminal incident information relating to felony offenses. However, where the release of criminal incident information is likely to jeopardize an ongoing investigation or prosecution, or the safety of an individual; cause a suspect to flee or evade detection; or result in the destruction of evidence, such information may be withheld until the above referenced damage is no longer likely to occur from release of the information. Nothing in this subsection shall be construed to prohibit the release of those portions of such information that are not likely to cause the above referenced damage.~~

~~C. Information in the custody of law enforcement agencies relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest shall be released.~~

~~D. The identity of any victim, witness or undercover officer, or investigative techniques or procedures need not but may be disclosed unless disclosure is prohibited or restricted under § [19.2-11.2](#).~~

~~E. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.~~

~~F. All public bodies engaged in criminal law-enforcement activities shall provide requested records in accordance with this chapter as follows:~~

1. Records required to be released:

a. Criminal incident information relating to felony offenses, which shall include:

- (1) A general description of the criminal activity reported;*
- (2) The date the alleged crime was committed;*
- (3) The general location where the alleged crime was committed;*
- (4) The identity of the investigating officer or other point of contact; and*
- (5) A general description of any injuries suffered or property damaged or stolen.*

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision a.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision a shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

b. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation; and

c. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest;

2. Discretionary releases. The following records are excluded from the provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

~~1. a. Criminal investigative files as, defined in subsection A as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information subject to release in accordance with subdivision 1 a;~~

~~2. Adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;~~

~~3. b. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ [2.2-307](#) et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Chapter 17 (§ [23-232](#) et seq.) of Title 23;~~

~~4. Portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity;~~

~~5. c. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;~~

~~6-d.~~ All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

~~7-e.~~ Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

~~8-f.~~ All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ [19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ [53.1-141](#) et seq.) of Chapter 4 of Title 53.1;

~~9-g.~~ Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

~~10-h.~~ Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;~~and~~

~~11-i.~~ Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

~~G. Records kept by law enforcement agencies as required by § [15.2-1722](#) shall be subject to the provisions of this chapter except that those portions of noncriminal incident or other investigative reports or materials that contain identifying information of a personal, medical or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person.~~

~~H. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1 are excluded from the provisions of this chapter, including information obtained from state, local and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § [9.1-913](#).~~

j. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § [19.2-11.2](#); and

k. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § [9.1-913](#); and

3. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

B. Noncriminal records. Records (i) required to be maintained by law-enforcement agencies pursuant to § [15.2-1722](#) or (ii) maintained by other public bodies engaged in criminal law-enforcement activities shall be subject to the provisions of this chapter except that those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person.

Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision A 2 i of this section and subdivision 1 of § [2.2-3705.1](#), as applicable.

C. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

D. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

§ [2.2-3711](#). Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be

performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § [2.2-3705.1](#).

12. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § [2.2-3705.5](#).

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § [58.1-4007](#) regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § [2.2-3705.3](#) and subdivision 11 of § [2.2-3705.7](#).

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § [51.1-124.30](#), or of any local retirement system, acting pursuant to § [51.1-803](#), or of the Rector and Visitors of the University of Virginia, acting pursuant to § [23-76.1](#), or by the Board of the Virginia College Savings Plan, acting pursuant to § [23-38.80](#), regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § [32.1-283.1](#), and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § [32.1-283.2](#), and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § [32.1-283.3](#).

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ [54.1-2515](#) et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § [2.2-3801](#), which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ [23-38.75](#) et seq.) of Title 23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § [56-484.15](#), of trade secrets, as defined in the Uniform Trade Secrets Act (§ [59.1-336](#) et seq.), submitted by CMRS providers as defined in § [56-484.12](#), related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § [2.2-4019](#) or [2.2-4020](#) during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § [2.2-3705.6](#) by a responsible public entity or an affected local jurisdiction, as those terms are defined in § [56-557](#), or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § [2.2-3705.6](#) by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § [2.2-3705.2](#) relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ [37.2-900](#) et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § [2.2-3705.6](#).

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ [15.2-5431.1](#) et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § [2.2-3705.6](#).

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § [24.2-625.1](#).

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ [9.1-1109](#) et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision ~~F~~ *A 2 a* of § [2.2-3706](#).

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § [2.2-3705.4](#), and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § [2.2-3705.6](#).

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § [51.1-124.30](#), by the Investment Advisory Committee appointed pursuant to § [51.1-124.26](#), by any local retirement system, acting pursuant to § [51.1-803](#), by the Board of the Virginia College Savings Plan acting pursuant to § [23-38.80](#), or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § [23-38.79:1](#) of records excluded from this chapter pursuant to subdivision 25 of § [2.2-3705.7](#).

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § [2.2-3705.6](#).

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 13 of § [2.2-3705.3](#).

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § [2.2-3705.2](#).

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § [2.2-3705.7](#).

44. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § [2.2-3705.6](#).

45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of records excluded from this chapter pursuant to subdivision 24 of § [2.2-3705.6](#).

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ [54.1-2515](#) et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ [15.2-4900](#) et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ [15.2-1713.1](#). Local "Crime Stoppers" programs; confidentiality.

A. As used in this section, a "Crime Stoppers," "crime solvers," "crime line," or other similarly named organization is defined as a private, nonprofit Virginia corporation governed by a civilian volunteer board of directors that is operated on a local or statewide level that (i) offers anonymity to persons providing information

to the organization, (ii) accepts and expends donations for cash rewards to persons who report to the organization information about alleged criminal activity and that the organization forwards to the appropriate law-enforcement agency, and (iii) is established as a cooperative alliance between the news media, the community, and law-enforcement officials.

B. Evidence of a communication or any information contained therein between a person submitting a report of an alleged criminal act to a "Crime Stoppers" organization and the person who accepted the report on behalf of the organization is not admissible in a court proceeding. Law-enforcement agencies receiving information concerning alleged criminal activity from a "Crime Stoppers" organization shall maintain confidentiality pursuant to ~~subsection E~~ *subdivision A 3* of § [2.2-3706](#).

Sex Offender and Crimes Against Minors Registry Act; offenses requiring registration. Adds to the list of offenses that require a person to register on the Sex Offender Registry certain offenses comparable to those currently requiring registration where the conviction was under Title 18.1 of the Code of Virginia, which was in effect prior to 1975 when Title 18.2 came into effect. This bill is identical to [SB 1032](#).

CHAPTER 750

An Act to amend and reenact § [9.1-902](#) of the Code of Virginia, relating to the Sex Offender and Crimes Against Minors Registry Act; offenses requiring registration.

[H 1862]

Approved April 3, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [9.1-902](#) of the Code of Virginia is amended and reenacted as follows:

§ [9.1-902](#). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;
2. Criminal homicide;
3. Murder;
4. A sexually violent offense;
5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and
6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](#); unless registration is required pursuant to subdivision E 1; § [18.2-64.1](#); former § [18.2-67.2:1](#); § [18.2-90](#) with the intent to commit rape; former § [18.1-88](#) with the intent to commit rape; subsection B or C of § [18.2-374.1:1](#); former subsection D of § [18.2-374.1:1](#) as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § [18.2-374.3](#) as it was in effect on June 30, 2007; or subsection B, C, or D of § [18.2-374.3](#); or a third or subsequent conviction of (i) § [18.2-67.4](#), (ii) § [18.2-67.4:2](#), (iii) subsection C of § [18.2-67.5](#), or (iv) § [18.2-386.1](#).

If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section; subsection A of § [18.2-374.1:1](#); or a felony under § [18.2-67.5:1](#).

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), clause (i) of § [18.2-48](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), § [18.2-361](#), ~~or~~ § [18.2-366](#), or a felony violation of former § [18.1-191](#).

3. § [18.2-370.6](#).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](#) or § [18.2-371.1](#), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](#) or § [18.2-32](#) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section *or a violation of former § [18.1-21](#) where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.*

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § [18.2-48](#), *former § [18.1-38](#) with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § [18.1-39](#) that involves assisting or aiding in such an abduction, § [18.2-61](#), former § [18.1-44](#) when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § [18.2-63](#) where the perpetrator is more than five years older than the victim, § [18.2-67.1](#), § [18.2-67.2](#), § [18.2-67.3](#), former § [18.1-215](#) when the complaining witness is under 13 years of age, § [18.2-67.4](#) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](#), § [18.2-370](#), ~~or subdivision (1), (2), or (4) of former § [18.1-213](#), former § [18.1-214](#), or § [18.2-370.1](#) or § [18.2-374.1](#);~~ or*

2. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), clause (i) of § [18.2-48](#), § [18.2-361](#), § [18.2-366](#), or subsection C of § [18.2-374.1:1](#). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the

offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless or mentally incapacitated, as defined in § [18.2-67.10](#), and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. Upon such a determination the court shall advise the defendant of its determination and of the defendant's right to withdraw a plea of guilty or nolo contendere. If the defendant chooses to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

State and Local Government Conflict of Interests Act; definition of personal interest in a transaction.

Amends the definition of personal interest in a transaction to clarify that such an interest does not exist when an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency and the personal interest in the transaction of the governmental agency is the result of the compensation or benefits provided by the separate local governmental agency to the officer, employee, elected member, or member of his immediate family.

CHAPTER 475

An Act to amend and reenact § [2.2-3101](#) of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; definition of personal interest in a transaction.

[S 1119]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That § [2.2-3101](#) of the Code of Virginia is amended and reenacted as follows:

§ [2.2-3101](#). Definitions.

As used in this chapter:

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the officer or employee, or provides to the officer or employee, more than one-half of his financial support.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in § [13.1-501](#), or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" shall not include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of (i) or (iv) above.

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer-~~or~~,

employee ~~where an employee~~, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, *or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency*, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body *or the separate governmental agency* to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § [2.2-3114](#).

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated

MISCELLANEOUS – SUMMARY ONLY

HB2058 and SB1048 - § 19.2-13 - **Special conservators of the peace; museums of the Commonwealth.** Authorizes any museum owned and managed by the Commonwealth to apply for the appointment by the circuit court of a special conservator of the peace. This bill is identical to [SB 1048](#).

HB1877 and SB943 - § 53.1-10 - **Departments of Corrections and Juvenile Justice; powers and duties of the Director.** Provides the Directors of the Department of Corrections and the Department of Juvenile Justice with the power to designate certain employees with internal investigations authority within those Departments as having the same power as a sheriff or a law-enforcement officer to investigate allegations of criminal behavior affecting the operations of those Departments. The bill also requires such employees shall be subject to any minimum training standard required by the Department of Criminal Justice Services for law-enforcement officers. Finally, the bill requires these Departments to investigate any allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. This bill is identical to [SB 943](#).

HB1383 and SB1288 - § 19.2-389 - **Criminal history checks of emergency medical services personnel.** Provides that the State Board of Health shall require each person who, on or after July 1, 2013, applies to be a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information for the purpose of a state and national criminal history record check. This bill is identical to [SB 1288](#).

HB1451 - § 16.1-69.55 - **Retention of case records; general district court.** Permits the chief judge of a general district court to direct the clerk of that court to destroy documents related to civil and criminal cases that have been ended for a period of three years, provided that they have been microfilmed or converted to an electronic format. Currently, such documents must be retained for 10 years. This bill is a recommendation of the Committee on District Courts. The bill is identical to [SB979](#).

HB1499 and SB773 - § 54.1-3408 - **Administration of medications.** Clarifies the circumstances under which emergency medical services personnel may administer medications and provides that emergency medical services personnel may administer medications pursuant to an oral or written order or standing protocol. This bill is identical to [SB 773](#).

HB1733 - § 65.2-1306 - **Workers' compensation; peer review of services rendered by physicians.** Allows any party to a dispute regarding medical treatment or services that has been referred to a peer review committee to have the matter remanded to the Workers' Compensation Commission if the matter has not been resolved within six months of its referral. A case remanded to the Commission shall not be re-referred to a peer review committee.

HB1649 - § 54.1-4009 - **Pawnbrokers and precious metals dealers; required to be maintained; certain digital images.** Requires pawnbrokers and precious metals dealers to take a digital image of the form of identification used by the person pawning, pledging, or selling the goods or articles, and requires such identification to bear a photograph of the person. The bill also prohibits a pawnbroker from pawning or accepting goods or articles if the original serial number affixed to the good or article has been removed, defaced, or altered.

HB2121 and SB1026 - §15.2-1705 - **Law-enforcement officers; grounds for decertification.** Provides that no person who becomes a law-enforcement officer on or after July 1, 2013, may have been convicted of or pled guilty or no contest to any misdemeanor involving moral turpitude, including petit larceny, any misdemeanor sex offense, or any domestic assault. Additionally, any certified law-enforcement officer who has been convicted of or pled guilty or no contest to any such crime shall be decertified by the Criminal Justice Services Board.

The bill additionally requires a sheriff, chief of police, or agency administrator to notify the Criminal Justice Services Board in writing when any certified law-enforcement officer or jail officer who is currently employed is convicted of or pleads guilty or no contest to certain crimes. Notice is also required when a law-enforcement officer or jail officer resigns or is terminated in advance of a pending drug screening or conviction of an offense that requires decertification. Upon receiving notice, the Criminal Justice Services Board shall decertify such officer.

Finally, the bill allows for the Department of Criminal Justice Services to waive decertification requirements for good cause. This bill is identical to [SB 1026](#).

HB1826 - § 15.2-1724 - **Law-enforcement officers; exceptions to territorial limits.** Provides that whenever the necessity arises for the enforcement of laws related to kidnapping, police officers and other officers, agents, and employees of a locality, Capitol Police officers, and campus police may be sent beyond their territorial limits.

SB839 - § 15.2-1726 - **Local boundaries for law-enforcement purposes.** Provides that localities may designate mutually agreed-upon boundary lines between contiguous localities for purposes of organizing 911 dispatch and response, determining territorial jurisdiction in criminal cases, and clarifying issues related to coverage under workers' compensation and risk management laws. This bill incorporates [SB 1314](#).

SB931 - § 32.1-288 - **Disposition of unclaimed dead bodies.** Provides that in cases in which the next of kin of a deceased person fails or refuses to claim the body of the deceased person within 30 days, the sheriff or other person having initial custody of the dead body may dispose of the body, and provides that, absent bad faith or malicious intent, a sheriff who accepts a dead body for disposition shall be immune from civil liability.

HB1481 - § 59.1-116.1 - **Secondhand articles; scrap metal purchasers; penalty.** Provides that any person or business that purchases scrap metal in excess of \$20,000 during a 12-month period shall be subject to requirements regarding the purchase of nonferrous scrap, metal articles, and proprietary articles. The bill requires scrap metal purchasers to take and maintain for 30 days an image of any proprietary articles purchased. The bill also requires scrap metal purchasers to submit to the chief law-enforcement officer a report of all of purchases of certain items, if requested by such law-enforcement officer, using a form prescribed by the Virginia State Police. The bill incorporates [HB 1323](#).

SB1215 - § 2.2-3104 - **State and Local Government Conflict of Interests Act; revolving door for state employees.** Provides that certain former employees of state agencies must wait one year before representing clients for compensation before their agencies in matters involving regulatory review by such agencies.

HB2344 - § 9.1-84 - **School safety; threat assessment teams and oversight committees.** Requires local school boards to establish policies and procedures for the establishment of threat assessment teams. The bill requires the division superintendent to establish for each school a threat assessment team. The threat assessment teams shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement the policies adopted by the school board. The bill requires threat assessment teams to report to the division superintendent upon a preliminary determination that an individual poses a threat of violence to self or others.

HB2114 and SB1176 - § 2.2-309 - **State Inspector General; powers and duties.** Grants additional powers to the State Inspector General relating to audit functions of state and nonstate agencies and provides that the State Inspector General and no more than 30 members of the investigative unit shall be law-enforcement officers. The bill requires the State Inspector General to enter into a memorandum of understanding with the Department of State Police relative to their respective roles and responsibilities. The bill reorganizes the State Inspector General's powers and duties and generally reorganizes the law relating to the Office of the State Inspector General. The bill contains technical amendments. The bill is identical to [SB 1176](#).

HB1704 - § 54.1-2523 - **Prescription Monitoring Program; disclosure of information to local law enforcement.** Adds an agent designated by the chief law-enforcement officer of any county or city to the list of

individuals to whom the Department of Health Professions must disclose information relevant to a specific investigation of a specific recipient, dispenser, or prescriber upon request, and provides that agents designated by the superintendent of the Department of State Police or the chief law-enforcement officer of a county or city to receive information relevant to a specific investigation of a specific recipient, dispenser, or prescriber shall have completed the Virginia State Police Drug Diversion School. The bill also provides that the Department may disclose information relating to prescriptions for covered substances issued by a specific prescriber to that prescriber.

HB2012 and SB1331 – N/A - **Drones; moratorium.** Places a moratorium on the use of unmanned aircraft systems by state and local law enforcement and regulatory entities until July 1, 2015, except in defined emergency situations or in training exercises related to such situations. The moratorium does not apply to certain Virginia National Guard functions or to research and development conducted by institutions of higher education or other research organizations. The bill requires the Department of Criminal Justice Services, in consultation with the Office of the Attorney General and other agencies, to develop protocols for the use of drones by law-enforcement agencies and report its findings to the Governor and the General Assembly by November 1, 2013. The bill incorporates [HB 1616](#) and is identical to [SB 1331](#).

HB2347 - § 16.1-301 - **Confidentiality of juvenile law-enforcement records; disclosures to school principal.** Provides that, in addition to disclosures of juvenile law-enforcement records that may already be made by chiefs of police and sheriffs to school principals, those same records (involving violent crimes, arson crimes, and firearm crimes) may also be released by the principal of the school to threat assessment teams established by the local school division. The bill also allows law enforcement to share with private school principals the same law-enforcement records concerning juveniles that it can share with public school principals and allows private school principals to share information with threat assessment teams.

SB811 - § 18.2-213.2 - **Filing fraudulent liens or encumbrances against the property of another; penalty.** Provides that any person who maliciously files a fraudulent lien or encumbrance in a public record against the real or personal property of another, knowing that such lien or encumbrance is false, is guilty of a Class 5 felony. The bill incorporates [SB 1113](#).